

Exhibit Y

777 PARTNERS LLC and SUTTONPARK CAPITAL LLC vs LEADENHALL CAPITAL
Shapiro, Mark on 03/05/2025

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

WEST PALM BEACH DIVISION

777 PARTNERS LLC and
SUTTONPARK CAPITAL LLC,

Plaintiffs,

vs.

CASE NO.

24-81143-CIV-DMM

LEADENHALL CAPITAL
PARTNERS LLP, LEADENHALL
LIFE INSURANCE LINKED
INVESTMENTS FUND PLC, NOAH
DAVIS, SAIPH CONSULTING LLC
and PAUL KOSINSKI,

Defendants.

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VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

MARK DAVID SHAPIRO

March 5, 2025

9:52 a.m.

1180 Peachtree Street NE

Suite 1700

Atlanta, Georgia

Nicole Limoncelli, RPR, CCR-5799-5142-5014-9888

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| <p>1 APPEARANCES OF COUNSEL:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 DAVID A. PELLEGRINO, Esquire</p> <p>4 JOHN G. MCCARTHY, Esquire - via Zoom</p> <p>5 Smith Gambrell &amp; Russell, LLP</p> <p>6 1301 Avenue of the Americas</p> <p>7 21st Floor</p> <p>8 New York, New York 10019</p> <p>9 (212) 907-9700</p> <p>10 (646) 887-8165 - (facsimile)</p> <p>11 dpellegrino@sgrlaw.com</p> <p>12 jmccarthy@sgrlaw.com</p> <p>13</p> <p>14 SHELLY A. DEROUSSE, Esquire - via Zoom</p> <p>15 Smith Gambrell &amp; Russell, LLP</p> <p>16 311 South Wacker Drive</p> <p>17 Suite 3000</p> <p>18 Chicago, Illinois 60606</p> <p>19 (312) 360-6000</p> <p>20 (312) 360-6520 - (facsimile)</p> <p>21 sderousse@sgrlaw.com</p> <p>22</p> <p>23 On behalf of the Defendants Leadenhall Capital</p> <p>24 Partners LLP and Leadenhall Life Insurance Linked</p> <p>25 Investments Fund PLC:</p> <p>PETER STARR, Esquire</p> <p>King &amp; Spalding, LLP</p> <p>1180 Peachtree Street NE</p> <p>Suite 1600</p> <p>Atlanta, Georgia 30309</p> <p>(404) 572-4600</p> <p>pstarr@kslaw.com</p> <p>LEIGH M. NATHANSON, Esquire - via Zoom</p> <p>King &amp; Spalding, LLP</p> <p>1185 Avenue of the Americas</p> <p>34th Floor</p> <p>New York, New York 10036</p> <p>(212) 556-2100</p> <p>lnathanson@kslaw.com</p> | <p>1 INDEX OF EXAMINATION</p> <p>2 WITNESS: MARK DAVID SHAPIRO</p> <p>3</p> <p>4 CROSS-EXAMINATION PAGE</p> <p>5 By Mr. Starr 9</p> <p>6</p> <p>7 CROSS-EXAMINATION</p> <p>8 By Mr. Morlan 154</p> <p>9</p> <p>10 RECROSS-EXAMINATION</p> <p>11 By Mr. Starr 278</p> <p>12</p> <p>13</p> <p>14 - - - - -</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                                                                                                                                                                                                                                                                                                    |
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| <p>1 APPEARANCES OF COUNSEL (continued):</p> <p>2 On behalf of the Defendant Noah Davis:</p> <p>3 LEONARD S. FEUER, Esquire - via Zoom</p> <p>4 Leonard Feuer, P.A.</p> <p>5 500 South Australian Avenue</p> <p>6 Suite 500</p> <p>7 West Palm Beach, Florida 33401</p> <p>8 (561) 659-1360</p> <p>9 (561) 249-4100 - (facsimile)</p> <p>10 lfeuer@feuerlawfirm.com</p> <p>11</p> <p>12 On behalf of the Defendants Saiph Consulting LLC and</p> <p>13 Paul Kosinski:</p> <p>14 HAROLD E. MORLAN, III, Esquire - via Zoom</p> <p>15 300 South Orange Avenue</p> <p>16 Shutts &amp; Bowen, LLP</p> <p>17 300 South Orange Avenue</p> <p>18 Suite 1600</p> <p>19 Orlando, Florida 32801</p> <p>20 (407) 423-3200</p> <p>21 (407) 425-8316 - (facsimile)</p> <p>22 hmorlan@shutts.com</p> <p>23</p> <p>24 Also Present:</p> <p>25 Brian Stephens - Videographer</p> <p>Ian Ratner - via Zoom</p> <p>Paul Kosinski - via Zoom</p> <p>- - - - -</p>                                                                                                                                                                                                                                                                                                                                                              | <p>1 INDEX OF EXHIBITS</p> <p>2 SHAPIRO</p> <p>3 EXHIBITS DESCRIPTION PAGE</p> <p>4 Exhibit 1 Declaration of Mark Shapiro 51</p> <p>5 in Opposition to Application</p> <p>6 For Temporary Restraints and</p> <p>7 the Appointment of a Receiver</p> <p>8 Exhibit 2 An e-mail chain dated 83</p> <p>9 June 20, 2024</p> <p>10 Bates stamp</p> <p>11 777(PL-FL)_00004886 through</p> <p>12 777(PL-FL)_00004889</p> <p>13 Exhibit 3 An e-mail chain dated 86</p> <p>14 July 2024</p> <p>15 Bates stamp</p> <p>16 777(PL-FL)_00004890 through</p> <p>17 777(PL-FL)_00004895</p> <p>18 Exhibit 4 Eric Mazur's initial report 118</p> <p>19 and supplemental report</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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| Page 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Page 9                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>1 Videotaped Videoconference Deposition of</p> <p>2 Mark David Shapiro</p> <p>3 March 5, 2025</p> <p>4 THE VIDEOGRAPHER: Okay. We are on the</p> <p>5 record.</p> <p>6 Today's date is March 5th, 2025, and the</p> <p>7 time is approximately 9:52 a.m.</p> <p>8 This will be the videotaped deposition of</p> <p>9 Mark Shapiro in the matter of 777 Partners LLC, et</p> <p>10 al. versus Leadenhall Capital Partners LLP, et al.</p> <p>11 Will the attorneys present please state</p> <p>12 their names and whom they represent, starting with</p> <p>13 those online.</p> <p>14 MR. MORLAN: Harold E. Morlan, III with</p> <p>15 Shutts &amp; Bowen here on behalf of Saiph Consulting</p> <p>16 LLC and Paul Kosinski.</p> <p>17 MR. FEUER: Good morning. Leonard Feuer,</p> <p>18 The First of Leonard Feuer, P.A. on behalf of Noah</p> <p>19 Davis.</p> <p>20 MS. NATHANSON: Good morning. Leigh</p> <p>21 Nathanson, King &amp; Spalding on behalf of the</p> <p>22 Leadenhall defendants.</p> <p>23 MR. PELLEGRINO: David Pellegrino of Smith</p> <p>24 Gambrell &amp; Russell on behalf of the plaintiffs 777</p> <p>25 Partners and Suttonpark Capital.</p> | <p>1 the record real quick?</p> <p>2 MR. STARR: Yes.</p> <p>3 THE VIDEOGRAPHER: Going off the record at</p> <p>4 9:54.</p> <p>5 (A recess was taken.)</p> <p>6 THE VIDEOGRAPHER: Okay. We're back on the</p> <p>7 record at 9:54.</p> <p>8 CROSS-EXAMINATION</p> <p>9 BY MR. STARR:</p> <p>10 <b>Q. Okay. Mr. Shapiro, could you please state</b></p> <p>11 <b>your full name for the record?</b></p> <p>12 A. Mark David Shapiro.</p> <p>13 <b>Q. And you've been deposed before?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. Many times?</b></p> <p>16 A. Many times.</p> <p>17 <b>Q. Okay. You've testified in open court?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Many times?</b></p> <p>20 A. Many times.</p> <p>21 <b>Q. So I won't go over the ground rules today,</b></p> <p>22 <b>but I will just ask if there's anything that would</b></p> <p>23 <b>interfere with your ability to give complete and</b></p> <p>24 <b>accurate testimony?</b></p> <p>25 A. There is not.</p>                                                                                                                                                  |

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| <p style="text-align: right;">Page 10</p> <p>1 Q. Okay. Just for clarity, during today's<br/>2 deposition, when I refer to "Leadenhall," I'll be<br/>3 referring to both of the Leadenhall entities that I<br/>4 represent unless I specify otherwise.<br/>5 A. Okay.<br/>6 Q. If I use term "plaintiffs," I'm referring to<br/>7 both 777 Partners and Suttonpark. And when I refer to<br/>8 the "New York action," I'm referring to the litigation<br/>9 Leadenhall commenced in the Southern District of New<br/>10 York.<br/>11 A. Understood.<br/>12 Q. Okay.<br/>13 MR. STARR: Before we get into the<br/>14 questions, I do want to make a record that<br/>15 custodial documents from your files -- from<br/>16 Mr. Shapiro's files were not produced to us until<br/>17 about 1:00 a.m. last night. So we have not had a<br/>18 chance to review those and will reserve the right<br/>19 to re-call Mr. Shapiro depending on the contents<br/>20 of that production and -- and also depending on<br/>21 whether the production of the B. Riley files is<br/>22 complete.<br/>23 BY MR. STARR:<br/>24 Q. Do you know whether the production of -- of<br/>25 your documents is complete?</p> | <p style="text-align: right;">Page 12</p> <p>1 we had or had to produce, so we had to beef up the<br/>2 staff.<br/>3 Q. So what was BakerHostetler's role?<br/>4 A. Their role was to review -- essentially do a<br/>5 preliminary review of the files. And then ultimately<br/>6 hand those over to Smith Gambrell for the final<br/>7 review.<br/>8 Q. Did BakerHostetler also collect the B. Riley<br/>9 documents in this case?<br/>10 A. I'm not sure if B. Riley extracted the data<br/>11 for Baker or if Baker did it themselves. I -- I'm not<br/>12 sure how that ended up being done. And it was<br/>13 discussed --<br/>14 MR. MORLAN: Peter, I need to hop over to<br/>15 the Bennett deposition.<br/>16 MR. STARR: Okay. Off the record.<br/>17 MR. FEUER: I'm doing the same.<br/>18 THE VIDEOGRAPHER: Going off the record.<br/>19 The time is 9:58.<br/>20 (Mr. Morlan and Mr. Feuer exited the<br/>21 proceedings.)<br/>22 (A recess was taken.)<br/>23 (Mr. Morlan and Mr. Feuer returned to the<br/>24 proceedings.)<br/>25 THE VIDEOGRAPHER: Okay. We're back on the</p> |
| <p style="text-align: right;">Page 11</p> <p>1 A. I mean, I believe it is. We -- we did the<br/>2 search terms per the -- per the -- per the agreed-upon<br/>3 search terms. And I personally went through my<br/>4 e-mails and hopefully it's complete.<br/>5 Q. What were the agreed-upon search terms?<br/>6 A. I can't recite them off the fact, there's a<br/>7 document that has the search terms.<br/>8 Q. Okay. You received a document with search<br/>9 terms?<br/>10 A. Yes.<br/>11 Q. From whom did you receive that?<br/>12 A. Counsel.<br/>13 Q. Which counsel?<br/>14 A. Smith Gambrell.<br/>15 Q. Okay. Does Smith Gambrell represent you in<br/>16 this matter?<br/>17 A. They represent the company. I'm here on<br/>18 behalf of the company.<br/>19 Q. Do you have separate counsel in this matter?<br/>20 A. I don't.<br/>21 Q. Is it true that B. Riley retained<br/>22 BakerHostetler to review your documents and the<br/>23 documents of Mr. Ratner?<br/>24 A. Yes. They were engaged to assist to help B.<br/>25 Riley because it was on fairly short-term notice that</p>                                                                                                | <p style="text-align: right;">Page 13</p> <p>1 record. It's 10:20.<br/>2 BY MR. STARR:<br/>3 Q. Okay. Mr. Shapiro, before the break we were<br/>4 discussing your document production.<br/>5 MR. STARR: And I just wanted to note<br/>6 Mr. Pellegrino represented that the production of<br/>7 B. Riley documents is not complete at this time.<br/>8 MR. PELLEGRINO: That's correct.<br/>9 BY MR. STARR:<br/>10 Q. And I believe you testified that there was a<br/>11 short turnaround time?<br/>12 A. Correct.<br/>13 Q. To produce?<br/>14 A. Yes.<br/>15 Q. When were you notified that you needed to<br/>16 produce documents?<br/>17 MR. PELLEGRINO: I'm just going to warn you<br/>18 not to disclose communications, the sum and<br/>19 substance of the communications with counsel.<br/>20 THE WITNESS: Well, I was notified of the<br/>21 timing with counseling.<br/>22 BY MR. STARR:<br/>23 Q. Yeah. When?<br/>24 THE WITNESS: Is that okay to answer?<br/>25 MR. PELLEGRINO: You may answer.</p>                                                                              |

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| <p style="text-align: right;">Page 14</p> <p>1 THE WITNESS: A week ago Friday.<br/>2 BY MR. STARR:<br/>3 <b>Q. 1 week ago?</b><br/>4 A. Or Thursday. I mean, I knew there was<br/>5 document production required, but I was made aware of<br/>6 the expedited timeline after the hearing on Thursday.<br/>7 I'm not sure if I knew it Thursday night or Friday.<br/>8 <b>Q. So -- okay. So last -- just last Friday --</b><br/>9 <b>last Thursday or Friday?</b><br/>10 A. Correct.<br/>11 <b>Q. Understood.</b><br/>12 <b>And --</b><br/>13 MR. MORLAN: Hey, Brian, can we turn up the<br/>14 microphone output levels from the deponent and<br/>15 Mr. Pellegrino? I'm having a little trouble<br/>16 hearing them.<br/>17 THE VIDEOGRAPHER: That's -- that's the room<br/>18 mics. Is there any way to boost those?<br/>19 MR. STARR: Can we go off the record?<br/>20 THE VIDEOGRAPHER: Going off the record.<br/>21 The time is 10:22.<br/>22 (Discussion ensued off the record.)<br/>23 THE VIDEOGRAPHER: Okay. We're back on.<br/>24 The time is 10:24.<br/>25 BY MR. STARR:</p>                                                                                     | <p style="text-align: right;">Page 16</p> <p>1 <b>Q. Do you use your B. Riley e-mail address for</b><br/>2 <b>your work with 777 Partners?</b><br/>3 A. Yes.<br/>4 <b>Q. Why is that?</b><br/>5 A. We're -- we've -- we've just never<br/>6 established e-mails on the 777 server. Sometimes with<br/>7 clients we do, other times we don't. But we just<br/>8 never did on this one.<br/>9 <b>Q. That's what I was going to ask, whether</b><br/>10 <b>that's your normal practice.</b><br/>11 A. Most of the time we don't use the client's<br/>12 e-mail.<br/>13 <b>Q. Okay. Mr. Shapiro, did you prepare for</b><br/>14 <b>today's deposition?</b><br/>15 A. I did.<br/>16 <b>Q. What did you do to prepare?</b><br/>17 A. I reviewed my e-mails files related to 777.<br/>18 I reviewed the pleadings in this matter, as well as to<br/>19 a lesser extent the New York matter. Had<br/>20 conversations with counsel. I had conversations with<br/>21 some of the folks who were working on the 777 matter<br/>22 from B. Riley. So that's all I can recall at this<br/>23 point.<br/>24 <b>Q. Well, let's -- let's start with the last</b><br/>25 <b>thing you said.</b></p> |
| <p style="text-align: right;">Page 15</p> <p>1 <b>Q. And so I believe you testified that B. Riley</b><br/>2 <b>retained BakerHostetler for first line review of the</b><br/>3 <b>documents?</b><br/>4 A. Correct.<br/>5 <b>Q. Did you have any --</b><br/>6 MR. STARR: Withdraw the question.<br/>7 BY MR. STARR:<br/>8 <b>Q. Did you retain BakerHostetler specifically</b><br/>9 <b>for that purpose or were they already on retainer?</b><br/>10 A. I'm not sure if they were on retainer. They<br/>11 were working for B. Riley on another small matter<br/>12 related to, I believe, a 401(k) payment payout, but it<br/>13 was very small matter they were working on.<br/>14 <b>Q. Did you have any confidentiality concerns</b><br/>15 <b>about allowing Smith Gambrell to conduct the first</b><br/>16 <b>line review of documents?</b><br/>17 MR. PELLEGRINO: Objection to form.<br/>18 BY MR. STARR:<br/>19 <b>Q. Go ahead.</b><br/>20 A. No.<br/>21 <b>Q. In your work for 777, you used your own B.</b><br/>22 <b>Riley e-mail address, right?</b><br/>23 A. For my e-mail?<br/>24 <b>Q. Do you have a 777 Partners e-mail address?</b><br/>25 A. I don't.</p> | <p style="text-align: right;">Page 17</p> <p>1 <b>Who at B. Riley did you discuss today's</b><br/>2 <b>deposition with?</b><br/>3 A. Ian Ratner.<br/>4 <b>Q. Anyone else?</b><br/>5 A. Just in general about, you know, I'm being<br/>6 deposed, probably Mike Thatcher (phonetic) who's<br/>7 working on the case with me. That's about it.<br/>8 <b>Q. Not Jim Howard?</b><br/>9 A. I don't think I talked to Jim about the<br/>10 deposition.<br/>11 <b>Q. What did you discuss with Mr. Ratner?</b><br/>12 MR. PELLEGRINO: I'm just going to warn --<br/>13 to the extent counsel was present, I'm warning you<br/>14 not to reveal the substance of conversations.<br/>15 MR. STARR: Hold on. I don't -- just<br/>16 because counsel was present in a meeting, that<br/>17 doesn't mean he can't testify about what he<br/>18 discussed with a nonlawyer.<br/>19 MR. PELLEGRINO: Not -- not if it was with<br/>20 counsel.<br/>21 MR. STARR: No, that's not how it works.<br/>22 BY MR. STARR:<br/>23 <b>Q. Go ahead. What were you going to say?</b><br/>24 THE WITNESS: Well, should I disclose<br/>25 conversations when you were there?</p>                                |

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| <p style="text-align: right;">Page 18</p> <p>1 MR. PELLEGRINO: If I -- if there was no<br/>2 counsel present, you can disclose the<br/>3 conversation.<br/>4 THE WITNESS: Okay. Noncounsel<br/>5 conversations with Ian were mostly about<br/>6 scheduling. Really no real in-depth<br/>7 conversations. The conversation I had with Ian,<br/>8 if anything, had to do with testimony would have<br/>9 been with -- with David.<br/>10 BY MR. STARR:<br/>11 Q. Okay. So did Mr. Pellegrino direct you to<br/>12 speak to Mr. Ratner about this deposition?<br/>13 MR. PELLEGRINO: I'm just going to object<br/>14 because it's -- that's the sub- -- sum and<br/>15 substance of --<br/>16 MR. STARR: No, no, no. I'm testing -- I'm<br/>17 testing your privilege objection. Because you<br/>18 appear to take the position by walking into a<br/>19 room, nothing that's said in that room can be<br/>20 disclosed due to privilege.<br/>21 MR. PELLEGRINO: Correct.<br/>22 MR. STARR: That's your position?<br/>23 MR. PELLEGRINO: It is.<br/>24 MR. STARR: Okay. That's not how it works.<br/>25 BY MR. STARR:</p> | <p style="text-align: right;">Page 20</p> <p>1 today's deposition?<br/>2 A. Yes.<br/>3 Q. Okay. Did you meet with anyone who would be<br/>4 considered a legacy 777 employee?<br/>5 A. No.<br/>6 Q. Okay. You said that you reviewed some<br/>7 e-mails; is that right?<br/>8 A. Correct.<br/>9 Q. Did those refresh your recollection?<br/>10 A. Yes.<br/>11 Q. Okay. Which e-mails did you review?<br/>12 A. I tried to look at the e-mails that would've<br/>13 come up in a search under Florida litigation,<br/>14 Leadenhall, Saiph, data intrusion, things like that.<br/>15 Q. Do you recall any -- any particular e-mails<br/>16 that you reviewed?<br/>17 A. No.<br/>18 Q. You can't think of a single e-mail you<br/>19 reviewed yesterday?<br/>20 A. I -- I mean, I -- nothing spectacular.<br/>21 Q. Did you bring any documents with you today?<br/>22 A. I did not.<br/>23 Q. Okay. Don't have any notes with you?<br/>24 A. None.<br/>25 Q. All right. You've been at B. Riley for</p>                                                 |
| <p style="text-align: right;">Page 19</p> <p>1 Q. Did Mr. Pellegrino direct you to discuss<br/>2 today's deposition with Mr. Ratner?<br/>3 MR. PELLEGRINO: I'm -- I'm going to object,<br/>4 direct him not to answer. The substance --<br/>5 substance of our conversations based on privilege.<br/>6 BY MR. STARR:<br/>7 Q. So you had no substantive with Mr. --<br/>8 substantive discussions, excuse me, with Mr. Ratner<br/>9 outside of the presence of counsel?<br/>10 A. No.<br/>11 Q. So you said that you met with counsel to<br/>12 prepare for today's deposition as well?<br/>13 A. Yes.<br/>14 Q. Which counsel?<br/>15 A. Mr. Pellegrino.<br/>16 Q. Anyone else?<br/>17 A. At times with John McCarthy.<br/>18 Q. Okay. And anyone from BakerHostetler?<br/>19 A. No.<br/>20 Q. When did you discuss today's deposition with<br/>21 the Smith Gambrell folks?<br/>22 A. Yesterday and some on Monday.<br/>23 Q. For about how long?<br/>24 A. I would say maybe 6 to 8 hours with counsel.<br/>25 Q. 6 to 8 hours of meetings altogether for</p>                                                       | <p style="text-align: right;">Page 21</p> <p>1 about 9 years; is that right?<br/>2 A. September of '16, so about 8 and a half<br/>3 years.<br/>4 Q. Okay. I've reviewed your bio.<br/>5 And you're a CPA?<br/>6 A. Inactive.<br/>7 Q. Okay. Do you have any other professional<br/>8 certification?<br/>9 A. No.<br/>10 Q. Do you have any legal training?<br/>11 A. No.<br/>12 Q. How would you describe your role or area of<br/>13 expertise at B. Riley?<br/>14 A. I'm primarily a -- I work primarily<br/>15 company-side financial advisor work for distressed<br/>16 situations, in and out of court. Sometimes as a<br/>17 financial advisor. Sometimes as a CRO. Sometimes as<br/>18 a receiver. Sometimes as a trustee.<br/>19 Q. Okay. And which of those services are you<br/>20 providing to 777 Partners?<br/>21 A. Technically I'm the chief -- interim chief<br/>22 operating officer, but functioning as a chief<br/>23 restructuring officer.<br/>24 Q. Okay. Do you normally --<br/>25 MR. STARR: Well, withdraw that question.</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 BY MR. STARR:</p> <p>2 <b>Q. Is a greater percentage of your work done</b></p> <p>3 <b>internally at a company as a restructuring officer or</b></p> <p>4 <b>externally as an advisor?</b></p> <p>5 A. I would say equal. They -- well, I consider</p> <p>6 them both external. It's whether I'm taking an</p> <p>7 officer position or not. It's very similar roles.</p> <p>8 <b>Q. That's what I mean.</b></p> <p>9 A. Yeah.</p> <p>10 <b>Q. When you step into a management position,</b></p> <p>11 <b>even if on an interim basis?</b></p> <p>12 A. Probably I'm a CRO versus an advisor</p> <p>13 probably half the time.</p> <p>14 <b>Q. Okay. And what is your understanding of 777</b></p> <p>15 <b>Partners' business?</b></p> <p>16 A. 777 is a portfolio of industry -- businesses</p> <p>17 in different industries. They started out in</p> <p>18 specialty finance and structured finance. But they</p> <p>19 also are into diverse industries, such as owning</p> <p>20 football clubs around the world, airlines, airline</p> <p>21 technology companies, movie studios, film finance</p> <p>22 studios, sports agencies. A lot of difficult types of</p> <p>23 companies.</p> <p>24 <b>Q. And one of their lines of business is in</b></p> <p>25 <b>investigating in receivables from structured</b></p> | <p style="text-align: right;">Page 24</p> <p>1 we have a better -- better handle on equity as opposed</p> <p>2 to debt levels. We know who the lenders are, but to</p> <p>3 get a proper cap table, we'd probably have to confirm</p> <p>4 debt levels with a lot of different folks, which we --</p> <p>5 <b>Q. Why have --</b></p> <p>6 A. -- which we have not done.</p> <p>7 <b>Q. Okay. Why has it been a challenge to</b></p> <p>8 <b>establish the debt levels?</b></p> <p>9 A. The books and records are behind when we</p> <p>10 first got in there. I think the books -- when we were</p> <p>11 in in -- in May of 2024, the books and records were --</p> <p>12 some of them were -- had not been closed for the year.</p> <p>13 They're still behind in certain instances of -- of</p> <p>14 closing the books.</p> <p>15 <b>Q. For the prior -- for fiscal 2023?</b></p> <p>16 A. Yeah, for fiscal '23. We haven't closed the</p> <p>17 books for '24 yet, but. It's a pretty thin -- thinly</p> <p>18 staffed accounting department and they were behind.</p> <p>19 <b>Q. Is there an operative balance sheet that</b></p> <p>20 <b>you're working off of now for 777?</b></p> <p>21 A. Again, each portfolio company has separate</p> <p>22 balance sheets.</p> <p>23 <b>Q. You don't have a consolidated --</b></p> <p>24 A. No.</p> <p>25 <b>Q. -- balance sheet? Okay.</b></p> |
| <p style="text-align: right;">Page 23</p> <p>1 <b>settlements or lottery winnings?</b></p> <p>2 A. Correct, structured settlements and -- and</p> <p>3 medical receivables, lottery winnings, reverse life</p> <p>4 mortgages, thing -- things like that.</p> <p>5 <b>Q. How does that all work? I mean, how does</b></p> <p>6 <b>777 identify people who have won the lottery?</b></p> <p>7 A. I don't know. That is a business that</p> <p>8 preceded me.</p> <p>9 <b>Q. Have you or has your team created a cap</b></p> <p>10 <b>table for 777 Partners?</b></p> <p>11 A. By what do you mean "a cap table"?</p> <p>12 <b>Q. Sorry, a cap. A capitalization table.</b></p> <p>13 A. A cap table, yes. To the -- yes, we have</p> <p>14 attempted to create a cap table for the various</p> <p>15 entities.</p> <p>16 <b>Q. And you understand what I mean when I</b></p> <p>17 <b>refer --</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Okay. So you -- you have created one or you</b></p> <p>20 <b>have attempted to create one?</b></p> <p>21 A. Well, we have org charts from -- that were</p> <p>22 prepared by the company. Each individual business has</p> <p>23 different ownerships, so it would be cap tables as</p> <p>24 opposed to cap table. Getting our arms around debt</p> <p>25 levels has been a little bit of a challenge. I think</p>                  | <p style="text-align: right;">Page 25</p> <p>1 <b>So for Suttonpark, do you have an operative</b></p> <p>2 <b>balance sheet?</b></p> <p>3 A. I haven't looked at it lately. I don't know</p> <p>4 how up to date it is.</p> <p>5 <b>Q. Okay. Were you asked to provide that cap</b></p> <p>6 <b>table that you mentioned to Leadenhall?</b></p> <p>7 A. I believe in one of their document requests</p> <p>8 they've asked for cap tables.</p> <p>9 <b>Q. Did you decline to provide it?</b></p> <p>10 A. I don't remember if we provided or not</p> <p>11 provided that cap table.</p> <p>12 <b>Q. Do you have any concerns about providing it?</b></p> <p>13 A. There's a lot of litigation in this matter</p> <p>14 and I run all document requests through -- through</p> <p>15 counsel.</p> <p>16 <b>Q. How many corporate affiliates does 777</b></p> <p>17 <b>Partners have?</b></p> <p>18 A. Hundreds.</p> <p>19 MR. PELLEGRINO: Objection to form.</p> <p>20 THE WITNESS: Hundreds.</p> <p>21 BY MR. STARR:</p> <p>22 <b>Q. Are you ultimately responsible for</b></p> <p>23 <b>overseeing the operations of those hundreds of</b></p> <p>24 <b>companies?</b></p> <p>25 A. Ultimately, yes, I am.</p>                                                                                                                                                                                  |

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| <p style="text-align: right;">Page 26</p> <p>1 Q. I understand that Josh Wander and Steven<br/>2 Pasko resigned as managing partners of the company in<br/>3 May of 2024, right?<br/>4 A. Yes.<br/>5 Q. That was after B. Riley was retained?<br/>6 A. Just after we were retained, yes.<br/>7 Q. Okay. After B. Riley was retained,<br/>8 Mr. Wander made a statement to the press in which he<br/>9 said "Steve Pasko and I maintain our active roles<br/>10 at -- at 777 Partners." Is that an accurate<br/>11 statement?<br/>12 A. I can't opine on what was -- what he said<br/>13 to -- I don't know what he said to the press.<br/>14 Q. Is it accurate that Josh Wander and Steve<br/>15 Pasko maintained their active roles at 777 Partners?<br/>16 A. No, it's not correct.<br/>17 Q. Okay. So what is Mr. Wander's role now?<br/>18 A. He is a consultant. He and Steve are<br/>19 consultants to the company. They're consultants.<br/>20 Q. So they are not employed -- they are<br/>21 consultants, not -- not employees?<br/>22 A. Correct. They were terminated as employees<br/>23 in September of 2024.<br/>24 Q. In September?<br/>25 A. Yes.</p> | <p style="text-align: right;">Page 28</p> <p>1 A. Typically, no.<br/>2 Q. Are there some issues on which you do confer<br/>3 with him?<br/>4 A. Josh has -- and -- and what -- what Josh and<br/>5 Steve have is historical knowledge of these -- these<br/>6 deals and these companies. And if I have questions as<br/>7 to how they operate or how we ended up requiring a<br/>8 company like this because sometimes it doesn't make<br/>9 sense that 777 would own a typical company or a --<br/>10 just a company. I'll have a conversation with Josh<br/>11 and he's good for history.<br/>12 He has an opinion on value, always, and I<br/>13 like to hear his opinions on value. They're probably<br/>14 very different than mine, but it's always good to run<br/>15 it by him to get -- get his idea on how he bought<br/>16 companies, what the value is. That's pretty much what<br/>17 I talk about with Josh.<br/>18 Q. Do you discuss with Mr. Wander prospective<br/>19 course of action with respect to a given company?<br/>20 A. He has a -- his opinions on mostly<br/>21 surrounding football clubs, which we don't control, as<br/>22 you know right now. Perceived value of those football<br/>23 clubs. But, no, I typically don't talk to him about<br/>24 taking actions on certain companies.<br/>25 Q. Why don't you control the football clubs?</p> |
| <p style="text-align: right;">Page 27</p> <p>1 Q. Did -- are there -- excuse me.<br/>2 Are there consulting agreements in writing?<br/>3 A. There are.<br/>4 Q. Okay. And who are the parties to those<br/>5 contracts?<br/>6 A. There's one with Steve and one with Josh.<br/>7 Q. And who's the counterparty?<br/>8 A. I don't -- can't recall which<br/>9 counterpart- -- which entity is the counterparty.<br/>10 Q. Would it be 777 Partners or 600 Partners?<br/>11 A. I would think it would be, but I can't<br/>12 verify which one it is.<br/>13 Q. Are they paid for their consulting services?<br/>14 A. They've been paid something. They haven't<br/>15 been paid all their consulting services. They're owed<br/>16 money.<br/>17 Q. They are owed money?<br/>18 A. Yes.<br/>19 Q. How much are they paid for their consulting<br/>20 services?<br/>21 A. I -- I don't know. I -- I was going to look<br/>22 before this because I knew I'd be asked the question<br/>23 and I didn't. I -- I can find out.<br/>24 Q. Okay. Do you confer with Mr. Wander before<br/>25 making business decisions for the company?</p>                                 | <p style="text-align: right;">Page 29</p> <p>1 A. In June of -- I believe it was June of 2024,<br/>2 777 -- not 777, A-CAP exercised their proxy over the<br/>3 equity of Nutmeg, which is the owner of the football<br/>4 clubs. And the A-CAP affiliate ACM -- I forget the<br/>5 name of that company, ACM Delegate is the manager of<br/>6 those football clubs. They're the manager of Nutmeg<br/>7 and the associated football clubs.<br/>8 Q. Got it.<br/>9 So you mentioned that you and Mr. Wander<br/>10 sometimes have different views on the value of a given<br/>11 portfolio company --<br/>12 A. Yes.<br/>13 Q. -- is that right?<br/>14 A. Yes.<br/>15 Q. Does that affect --<br/>16 MR. STARR: Well, withdraw that.<br/>17 BY MR. STARR:<br/>18 Q. I assume you take into account the value of<br/>19 a given company when deciding whether to liquidate or<br/>20 retain that company?<br/>21 A. Correct.<br/>22 Q. And so if you're making a decision with<br/>23 respect to the future of a given company, do you<br/>24 discuss that decision with Mr. Wander?<br/>25 A. I let him know what companies are -- are --</p>                                                                                                                                                                                                                                   |

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| <p style="text-align: right;">Page 30</p> <p>1 we're -- we're contemplating monetizing, yes.</p> <p>2 <b>Q. And you ask for his input on that decision?</b></p> <p>3 A. Whether I ask for it or not, he gives it.</p> <p>4 <b>Q. Is the same true for Mr. Pasko or are there</b></p> <p>5 <b>any differences between the way you describe</b></p> <p>6 <b>Mr. Wander's, you know, role now and Mr. Pasko's role?</b></p> <p>7 A. I would -- I would -- Steve is much more of</p> <p>8 an operator and has less an opinion on value.</p> <p>9 <b>Q. So what sorts of decisions do you run by</b></p> <p>10 <b>Mr. Pasko?</b></p> <p>11 A. I -- I don't --</p> <p>12 MR. PELLEGRINO: Objection to form.</p> <p>13 THE WITNESS: Yeah, I wouldn't say I run</p> <p>14 decisions past Steve.</p> <p>15 BY MR. STARR:</p> <p>16 <b>Q. Okay. Well, what do you discuss with --</b></p> <p>17 A. We discuss with him, again, the -- the</p> <p>18 status of the companies, what's going on at the</p> <p>19 portfolio companies. He has a pretty good handle on</p> <p>20 the people who run those portfolio companies.</p> <p>21 Sometimes if they're contemplating either a deal or</p> <p>22 they need funding or things like that, they'll --</p> <p>23 they'll go through Steve. Steve has a good</p> <p>24 relationship with -- with those portfolio companies.</p> <p>25 And, again, he's much more of an operator than Josh</p> | <p style="text-align: right;">Page 32</p> <p>1 A. And CDC.</p> <p>2 <b>Q. Mm-hmm.</b></p> <p>3 A. We are discussing a potential sale of the</p> <p>4 equity in the movie studio STX. The film finance</p> <p>5 company FFI filed for bankruptcy. That sale is either</p> <p>6 closing or just closed. I know it had not closed as</p> <p>7 of last week, so that one is -- is up.</p> <p>8 There is -- in the most near term, there is</p> <p>9 a foreclosure action in a company called MCAG, which</p> <p>10 is a -- I believe a tribal lending company I</p> <p>11 believe -- no. MCAG is in claims -- Blue Cross Blue</p> <p>12 Shield claims and Visa MasterCard claims. That one is</p> <p>13 up for foreclosure. We actually talked to Leadenhall</p> <p>14 about that one. They chose not to participate in</p> <p>15 that. And, again, it's near foreclosure. I'm not</p> <p>16 sure if it closed or not.</p> <p>17 There is a technology company in -- in</p> <p>18 Europe somewhere called Stars I believe is -- is the</p> <p>19 name, Star something. There is a sale of that. It's</p> <p>20 small. It's a few hundred thousand dollars in that</p> <p>21 one.</p> <p>22 Again, small ones here and there. I think</p> <p>23 those -- I think I recall those are the ones that</p> <p>24 we're currently in discussion on in the near term,</p> <p>25 yes.</p>                              |
| <p style="text-align: right;">Page 31</p> <p>1 is.</p> <p>2 <b>Q. Are there any portfolio companies that</b></p> <p>3 <b>you're planning to monetize?</b></p> <p>4 A. Okay. We are -- there's been discussions</p> <p>5 about a few companies. One is a company called MLH,</p> <p>6 which is a -- a company in -- I believe MLH is in -- I</p> <p>7 get some of these mixed up. It's either in litigation</p> <p>8 financial or medical liens receivables. I'm --</p> <p>9 THE COURT REPORTER: Or what? I'm sorry.</p> <p>10 THE WITNESS: Medical lien receivables.</p> <p>11 I'm -- I'm drawing a blank as to which one that</p> <p>12 one is.</p> <p>13 We are contemplating or we're discussing</p> <p>14 with SILAC their ability to foreclose on a company</p> <p>15 called -- or the assets on a company called CSG,</p> <p>16 which is a litigation funding company.</p> <p>17 There's another company that the Matt</p> <p>18 portfolio company is looking at, trying to put a</p> <p>19 deal together for a company called CDC or Deed --</p> <p>20 Deed Street. I believe that's a structured</p> <p>21 settlement company.</p> <p>22 BY MR. STARR:</p> <p>23 <b>Q. Deed Street?</b></p> <p>24 A. Deed Street.</p> <p>25 <b>Q. Okay.</b></p>                                                                                                                                                                         | <p style="text-align: right;">Page 33</p> <p>1 I'll tell you one we just closed because --</p> <p>2 <b>Q. Mm-hmm.</b></p> <p>3 A. -- is a group of technology companies in the</p> <p>4 airline business. They supported the Flair Business</p> <p>5 and a company called Aero CRS and Air Black Box. They</p> <p>6 go under the trade name of GO7, you may have heard of.</p> <p>7 And that one we actually sold and closed last week to</p> <p>8 a third party for some cash. It was about a million</p> <p>9 dollars. But more importantly, yeah, it was the</p> <p>10 assumption of 25-plus million dollars of liabilities.</p> <p>11 We avoided a bankruptcy. And those are the types of</p> <p>12 deals that we're doing. All of these companies are</p> <p>13 fully levered by the way.</p> <p>14 <b>Q. Mm-hmm.</b></p> <p>15 <b>So when you do monetize these companies, for</b></p> <p>16 <b>what purpose are you doing that?</b></p> <p>17 A. To either raise cash or rid ourselves of</p> <p>18 debt. Those are our two -- two -- two things we're</p> <p>19 looking towards.</p> <p>20 <b>Q. Where does the cash that you raise go?</b></p> <p>21 A. Operations.</p> <p>22 <b>Q. For which company?</b></p> <p>23 A. The general pool payroll. I mean, most of</p> <p>24 the portfolio companies are cash -- close to cash</p> <p>25 neutral. When we first got in there, we were feeding</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 losses at the portfolio companies. We've stent most<br/>2 of those losses. So most of the cash that's coming in<br/>3 is going to come in and be used for the payroll at the<br/>4 hold -- HoldCo level and the cadre of advisors and<br/>5 attorneys who are currently at 777.<br/>6 <b>Q. Mm-hmm.</b><br/>7 <b>Okay. So in the declaration that you</b><br/>8 <b>submitted in the New York action, you -- there was a</b><br/>9 <b>statement that -- that Wander and Pasko's continued</b><br/>10 <b>assistance is critical with respect to certain issues.</b><br/>11 <b>Are the issues that you covered those that you're</b><br/>12 <b>referring to there or are there other critical issues</b><br/>13 <b>on which you need their -- or would you have gotten</b><br/>14 <b>their assistance?</b><br/>15 A. Back then in May, we were drinking from a<br/>16 fire hose. There was a lot going on. And we know a<br/>17 lot more today than we did back then. It was very<br/>18 critical to keep those two around, just -- just to<br/>19 learn for a period of time so that we can -- we can<br/>20 operate the companies.<br/>21 <b>Q. Mm-hmm.</b><br/>22 <b>So today, who's in charge of making</b><br/>23 <b>decisions at 777 Partners, ultimate decision making</b><br/>24 <b>authority?</b><br/>25 A. Well, I have operating decisions. And the</p> | <p style="text-align: right;">Page 36</p> <p>1 operating the day-to-day. Jim's a very senior member,<br/>2 recently retired. Teresa as well. But they are<br/>3 running the day-to-day of Suttonpark.<br/>4 <b>Q. Is it true that there's only a handful of</b><br/>5 <b>employees at Suttonpark?</b><br/>6 A. I don't know how many. I know it's<br/>7 dramatically reduced.<br/>8 <b>Q. Are you in the process of winding Suttonpark</b><br/>9 <b>down?</b><br/>10 A. No. I don't think we can wind Suttonpark<br/>11 down. I think we're transitioning the servicing to<br/>12 others, but the entity Suttonpark has assets that<br/>13 ultimately have to be monetized.<br/>14 <b>Q. Is Suttonpark insolvent at the moment?</b><br/>15 MR. PELLEGRINO: Objection to form.<br/>16 THE WITNESS: The last time I looked,<br/>17 Suttonpark's debt was more than their -- what we<br/>18 believe the asset values to be. However, they are<br/>19 paying their bills as they're due.<br/>20 BY MR. STARR:<br/>21 <b>Q. Okay. So if you could just explain at a</b><br/>22 <b>high level what B. Riley was brought in to do for 777</b><br/>23 <b>Partners?</b><br/>24 A. B. Riley was brought in to be an independent<br/>25 operator of 777 Partners. Our engagement is -- will</p>         |
| <p style="text-align: right;">Page 35</p> <p>1 two managers are Ian Ratner and myself. We make all<br/>2 the decisions or have ultimate responsibility for<br/>3 decisions.<br/>4 <b>Q. The same is true with 600 --</b><br/>5 A. Yes.<br/>6 <b>Q. -- Partners?</b><br/>7 A. Yes.<br/>8 <b>Q. Okay. And what is Suttonpark Capital?</b><br/>9 A. Suttonpark Capital is a structured<br/>10 settlement company. That is -- 777 serviced their<br/>11 portfolio of -- of receivables. Leadenhall is a<br/>12 lender to Suttonpark Capital, amongst other folks.<br/>13 And currently we are in transition of -- or we're in<br/>14 the process of transition servicing because of the<br/>15 various litigations away from 777 to third parties.<br/>16 <b>Q. Did 777 Partners and Suttonpark have any</b><br/>17 <b>shared bank accounts?</b><br/>18 A. No.<br/>19 <b>Q. And who owns Suttonpark?</b><br/>20 A. I'd have to look at the org chart.<br/>21 <b>Q. Who's in charge of making decisions at</b><br/>22 <b>Suttonpark?</b><br/>23 A. Ultimately Ian and I are decision makers<br/>24 there, but we have our -- we have two B. Riley folks<br/>25 there, Jim Howard and Teresa Licamora. They are</p>                                                                                                                                                                                                  | <p style="text-align: right;">Page 37</p> <p>1 look very similar to a traditional CRO engagement<br/>2 where we're responsible for cash flow and budgeting<br/>3 and looking at forecasts and restructuring<br/>4 alternatives and operating the business and making<br/>5 hiring and firing decisions, all those types of<br/>6 things.<br/>7 What's a little bit different in our<br/>8 engagement is that originally Ian Ratner and Ron Glass<br/>9 were installed as managers of the company. Ultimately<br/>10 Ron was taken off in September and I was put on as the<br/>11 second manager. So as of now, Ian and myself are the<br/>12 managers of the company. That's what makes this one a<br/>13 little bit different than our traditional CRO roles.<br/>14 <b>Q. And why was Mr. Glass taken off the</b><br/>15 <b>engagement?</b><br/>16 A. It was really just a decision because I was<br/>17 there every day. I had more knowledge of the -- of<br/>18 the business, and it just didn't -- it was just more<br/>19 efficient to have me as a manager as well, as opposed<br/>20 to Ron.<br/>21 <b>Q. And you said that B. Riley's independent?</b><br/>22 A. Yes.<br/>23 <b>Q. Would you consider yourself an independent</b><br/>24 <b>fiduciary?</b><br/>25 A. I would.</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 <b>Q. Okay. To whom do you own fiduciary duties?</b></p> <p>2 A. The classic, to all stakeholders. We owe</p> <p>3 fiduciary duties to -- to owners, to creditors, to</p> <p>4 employees, to vendors, to all.</p> <p>5 THE COURT REPORTER: To what?</p> <p>6 THE WITNESS: To all stakeholders.</p> <p>7 BY MR. STARR:</p> <p>8 <b>Q. If you could just try to keep it up a tad.</b></p> <p>9 A. Yeah, I'm sorry.</p> <p>10 <b>Q. Thank you.</b></p> <p>11 A. I feel like I'm talking in the room, but</p> <p>12 I'll try to keep it up.</p> <p>13 <b>Q. I can hear you just fine. It's I'm worried</b></p> <p>14 <b>about the folks watching at home.</b></p> <p>15 <b>Okay. Why is it important that</b></p> <p>16 <b>restructuring advisors be independent?</b></p> <p>17 A. Well, we're brought in for a purpose to look</p> <p>18 out for stakeholders. And many times in this -- in</p> <p>19 these types of situations, in this one as well,</p> <p>20 there's push and pull between equity and creditors and</p> <p>21 everybody is trying to take out their own position.</p> <p>22 There's litigation. There's sometimes a mess,</p> <p>23 sometimes mistrust. And we need to be viewed as</p> <p>24 independent parties so that people can trust us and</p> <p>25 what we're saying make sense and that we're looking</p> | <p style="text-align: right;">Page 40</p> <p>1 <b>Q. Okay.</b></p> <p>2 A. The scope of services was, I believe, cut</p> <p>3 and paste into the declaration.</p> <p>4 <b>Q. Okay. How did B. Riley come to be hired for</b></p> <p>5 <b>this engagement?</b></p> <p>6 A. Ian was -- Ian Ratner was contacted by an</p> <p>7 attorney at Goldstein McClintock, I think in Chicago,</p> <p>8 who -- yes, that's -- I believe how it -- Ian -- Ian</p> <p>9 would know exactly how -- how we got their -- the</p> <p>10 referral. But that's my belief, it came through --</p> <p>11 through that law firm in Chicago.</p> <p>12 <b>Q. Is it the case that A-CAP requested that</b></p> <p>13 <b>Wander and Pasko resign from their positions at 777?</b></p> <p>14 A. I don't know who made that request. I know</p> <p>15 everybody wanted them to resign, including your</p> <p>16 clients.</p> <p>17 <b>Q. And that law firm that you've identified,</b></p> <p>18 <b>what -- what was the law firm again?</b></p> <p>19 A. Goldstein McClintock.</p> <p>20 <b>Q. Who retained them?</b></p> <p>21 A. I believe they're working for A-CAP in a</p> <p>22 restructuring role.</p> <p>23 <b>Q. And why do you think Leadenhall wanted</b></p> <p>24 <b>Wander and Pasko to resign?</b></p> <p>25 A. I don't want to be flippant, but read the</p> |
| <p style="text-align: right;">Page 39</p> <p>1 out for -- doing our best to look out for everybody.</p> <p>2 <b>Q. Is part of B. Riley's charge here to resolve</b></p> <p>3 <b>outstanding litigation?</b></p> <p>4 A. I believe a component of our engagement is</p> <p>5 to either -- it's worded as either work through</p> <p>6 litigation, resolve litigation. Our -- our role is to</p> <p>7 manage or hopefully manage the litigation to a</p> <p>8 resolution.</p> <p>9 <b>Q. Did you produce that engagement agreement by</b></p> <p>10 <b>the way?</b></p> <p>11 A. I believe I did.</p> <p>12 <b>Q. Okay.</b></p> <p>13 A. Well, most of the scope of the engagement</p> <p>14 agreement is in my declaration. So the scope is</p> <p>15 there. I don't know if we produced it. We -- we can</p> <p>16 check.</p> <p>17 <b>Q. Do you have a scope of work and an</b></p> <p>18 <b>engagement agreement?</b></p> <p>19 A. All total, one.</p> <p>20 <b>Q. That's the -- so --</b></p> <p>21 A. Correct.</p> <p>22 <b>Q. -- if there's a document called "scope of</b></p> <p>23 <b>work," that is the engagement agreement?</b></p> <p>24 A. The engagement -- the engagement agreement</p> <p>25 has a scope of services in it.</p>                                                                                                                                    | <p style="text-align: right;">Page 41</p> <p>1 allegations in the litigation. I -- I think it's</p> <p>2 obvious they -- they wanted them out.</p> <p>3 <b>Q. Did you hear that anywhere else?</b></p> <p>4 A. In conversations that we've had with</p> <p>5 counsel, Roger Schwartz who's now at Paul Hastings.</p> <p>6 He always questioned why -- why Josh and Steve were</p> <p>7 still on the payroll. I shouldn't say always.</p> <p>8 Frequently asked the question.</p> <p>9 <b>Q. Okay. Anywhere -- any other source for</b></p> <p>10 <b>that? Just thinking, I don't know that our New York</b></p> <p>11 <b>complaint says Leadenhall wanted them out.</b></p> <p>12 A. It doesn't.</p> <p>13 <b>Q. Okay.</b></p> <p>14 A. I -- I received that from counsel.</p> <p>15 <b>Q. Okay.</b></p> <p>16 <b>Okay. So A-CAP retained this Chicago law</b></p> <p>17 <b>firm. Your understanding is that that law firm</b></p> <p>18 <b>reached out to Mr. Ratner?</b></p> <p>19 A. And others. They were interviewing</p> <p>20 potential CROs, COO.</p> <p>21 <b>Q. They were like a search firm?</b></p> <p>22 A. Correct. They're a law firm.</p> <p>23 <b>Q. Okay. But their task was to identify</b></p> <p>24 <b>restructuring --</b></p> <p>25 A. Correct.</p>                                                                        |

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| <p style="text-align: right;">Page 42</p> <p>1 <b>Q. -- professionals?</b></p> <p>2 A. Correct.</p> <p>3 <b>Q. Okay. Were you involved in the --</b></p> <p>4 MR. STARR: Well, withdrawn.</p> <p>5 BY MR. STARR:</p> <p>6 <b>Q. Were there interviews to decide who would be</b></p> <p>7 <b>hired as restructuring advisors?</b></p> <p>8 A. I was not part of those interviews.</p> <p>9 <b>Q. Okay. Do you know who was?</b></p> <p>10 A. I believe Ian. I don't know who Ian spoke</p> <p>11 to, but he was part of the interview process.</p> <p>12 <b>Q. Okay. And which entity or person actually</b></p> <p>13 <b>retained B. Riley for this engagement?</b></p> <p>14 A. I believe it's 777 Partner and its</p> <p>15 affiliates, but I would -- I would have to go back and</p> <p>16 look at the engagement letter.</p> <p>17 <b>Q. Okay. You mentioned there is an engagement</b></p> <p>18 <b>agreement. When was that signed?</b></p> <p>19 A. May 3rd, 2024.</p> <p>20 <b>Q. Has it been renewed?</b></p> <p>21 A. There's no end date to it.</p> <p>22 <b>Q. That initial agreement wasn't set to expire</b></p> <p>23 <b>in December of last year?</b></p> <p>24 A. No.</p> <p>25 <b>Q. And when did you personally get involved</b></p>                                                                      | <p style="text-align: right;">Page 44</p> <p>1 A. We're paid hourly, similar to the law firms.</p> <p>2 <b>Q. Okay. And what's your rate?</b></p> <p>3 A. My rack rate is 850. I know we discounted</p> <p>4 it for this. I'm -- I forget. It's either 775 or</p> <p>5 795.</p> <p>6 <b>Q. How many hours do you think you've got into</b></p> <p>7 <b>this thing?</b></p> <p>8 A. More now. Currently I'm probably at about</p> <p>9 100 hours billable a month. Obviously I'm working</p> <p>10 more than that, but earlier on it was more.</p> <p>11 <b>Q. Okay. How many B. Riley professionals are</b></p> <p>12 <b>working for 777 and its affiliates?</b></p> <p>13 A. Currently?</p> <p>14 <b>Q. Yes, currently.</b></p> <p>15 A. I'll preface to say working on the</p> <p>16 engagement as opposed to working for 777. They're B.</p> <p>17 Riley employees.</p> <p>18 I'm just estimating. Probably 10 to 12 per</p> <p>19 month, ranging from 5 hours a week to 140 hours a</p> <p>20 week. Not a week, a month. Sorry.</p> <p>21 <b>Q. Okay. And was the number of employees</b></p> <p>22 <b>and/or hours higher at the beginning of the</b></p> <p>23 <b>engagement?</b></p> <p>24 A. Yes, it was.</p> <p>25 <b>Q. Could you estimate about how much activity</b></p> |
| <p style="text-align: right;">Page 43</p> <p>1 <b>with this particular engagement?</b></p> <p>2 A. I believe I showed up -- I think May 3rd was</p> <p>3 a Friday, and I showed up at the offices of 777 of</p> <p>4 Wednesday of the following week. It might have</p> <p>5 been -- I think that's the 8th, somewhere around</p> <p>6 there.</p> <p>7 <b>Q. Were you involved in negotiating any of the</b></p> <p>8 <b>terms of the engagement agreement or the scope of</b></p> <p>9 <b>services?</b></p> <p>10 A. I believe I was -- helped put together the</p> <p>11 engagement letter, so it would have been probably in</p> <p>12 that last week prior to getting engaged that I would</p> <p>13 have been involved in putting that together.</p> <p>14 <b>Q. And who were you working with that on or who</b></p> <p>15 <b>was your -- your counterparts or colleagues on that?</b></p> <p>16 A. It would have been Ian Ratner.</p> <p>17 <b>Q. And on the other side?</b></p> <p>18 A. I don't recall who was on the other side</p> <p>19 working on it.</p> <p>20 <b>Q. How is your compensation or B. -- let me</b></p> <p>21 <b>break --</b></p> <p>22 MR. STARR: Withdraw that question.</p> <p>23 BY MR. STARR:</p> <p>24 <b>Q. How is your compensation structured from 777</b></p> <p>25 <b>Partners?</b></p> | <p style="text-align: right;">Page 45</p> <p>1 <b>was happening there?</b></p> <p>2 A. Double the hours. Maybe 50 percent more</p> <p>3 people.</p> <p>4 <b>Q. So like 17 to 20 people --</b></p> <p>5 A. Correct.</p> <p>6 <b>Q. -- something? Okay.</b></p> <p>7 A. Again, those are just estimates.</p> <p>8 <b>Q. So in a typical month, what would your</b></p> <p>9 <b>invoice for this engagement be?</b></p> <p>10 A. We're currently running around 350 to</p> <p>11 400,000 a month.</p> <p>12 <b>Q. And who pays those invoices?</b></p> <p>13 A. 777 pays and Suttonpark pays.</p> <p>14 <b>Q. Are they being reimbursed by any other</b></p> <p>15 <b>entity?</b></p> <p>16 A. No.</p> <p>17 <b>Q. And that's always been -- have they always</b></p> <p>18 <b>paid your bills?</b></p> <p>19 A. Most of the time 777 has paid the bills.</p> <p>20 Now that Suttonpark has stabilized, Suttonpark pays</p> <p>21 part of it.</p> <p>22 <b>Q. These companies are cash -- are or have been</b></p> <p>23 <b>cash strapped, correct?</b></p> <p>24 A. They've been cash strapped to originate new</p> <p>25 business. Structured settlement with finance --</p>                                                                                                          |

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| <p style="text-align: right;">Page 46</p> <p>1 specialty finance companies need a big balance sheet<br/>2 to -- to originate new business. So in that regard<br/>3 they've been cash strapped. Certain portfolios<br/>4 companies are actually -- were actually generating<br/>5 cash and others were losing cash. It's a mixed bag.<br/>6 <b>Q. Didn't you testify earlier that you had to</b><br/>7 <b>stabilize being able to make payroll?</b><br/>8 A. Correct.<br/>9 <b>Q. So how were they getting the money to pay B.</b><br/>10 <b>Riley's bills? What was the source of that funding?</b><br/>11 A. Some were -- some came through asset sales<br/>12 and other times A-CAP is funding the business as a<br/>13 senior lender -- has funded the business as a senior<br/>14 lender and continues to fund the business as a senior<br/>15 lender.<br/>16 <b>Q. How does that arrangement with A-CAP work?</b><br/>17 A. We have a funding agreement up to<br/>18 \$25 million. We prepare cash forecasts. We are<br/>19 trying to manage the cash. You know, like any other<br/>20 engagement we have, we -- it's a push and a pull with<br/>21 senior lenders as to try to minimize disbursements and<br/>22 cash flows. And we work with them like we would with<br/>23 any other senior lender. It's a -- it's a weekly<br/>24 occurrence of drawing money. Do we need money? Do we<br/>25 not need money? Is anything being sold this week?</p> | <p style="text-align: right;">Page 48</p> <p>1 know, we've sold certain businesses. For instance,<br/>2 FFI was a bankruptcy that had a stocking horse that<br/>3 was a joint venture of SILAC and A-CAP. So I would've<br/>4 talked to Kenny about that potential sale. Most of<br/>5 the time spent with Kenny is discussed about how to<br/>6 cut costs and if he's funding businesses, why are we<br/>7 still funding these businesses. It's taken a while to<br/>8 sell some of those businesses. And most of those<br/>9 discussions are, when are you going to sell it? Why<br/>10 is it not sold yet? Why isn't this person terminated?<br/>11 Those types of things.<br/>12 <b>Q. Okay. And what have you discussed with Jill</b><br/>13 <b>Gittleman?</b><br/>14 A. My most recent conversations was -- with<br/>15 Jill was over our insurance policies, to make sure<br/>16 that we had sufficient insurance. It's very<br/>17 expensive. It's \$3 million for insurance policies and<br/>18 they wanted -- I think it -- she wanted to understand<br/>19 why it was so high, what we were doing. So we had<br/>20 that discussion with her.<br/>21 <b>Q. Why was Ms. Gettman involved in an insurance</b><br/>22 <b>policy discussion?</b><br/>23 A. Probably she was referred to by Mr. King,<br/>24 that essentially maybe he didn't accept my explanation<br/>25 as to why insurance was too -- so high and he wanted a</p> |
| <p style="text-align: right;">Page 47</p> <p>1 It's a -- it's -- it's a constant effort.<br/>2 <b>Q. So is A-CAP involved in business decisions</b><br/>3 <b>that B. Riley makes at 777?</b><br/>4 A. No.<br/>5 <b>Q. Do they have any rights to direct B. Riley's</b><br/>6 <b>decisions in this matter?</b><br/>7 A. It's a good question whether they have<br/>8 right -- I don't know. That would probably be a legal<br/>9 conclusion. They don't. I don't know if they have<br/>10 the right to. And I say that only because of the<br/>11 exercise of their proxies.<br/>12 <b>Q. Have you communicated with folks from A-CAP?</b><br/>13 A. Yes.<br/>14 <b>Q. Regularly?</b><br/>15 A. Periodically.<br/>16 <b>Q. Who have you spoken with from A-CAP?</b><br/>17 A. Kenny King. Jill Gittleman (phonetic).<br/>18 Carson, I forget who Carson's last name is. Those are<br/>19 my primary contacts if I'm speaking with A-CAP.<br/>20 <b>Q. And what do you -- what have you discussed</b><br/>21 <b>with Mr. King?</b><br/>22 A. Mostly funding.<br/>23 <b>Q. Have you discussed any particular business</b><br/>24 <b>decisions with Mr. King?</b><br/>25 A. If they have an interest in a business, you</p>                                                                                                                                                                                                                                      | <p style="text-align: right;">Page 49</p> <p>1 second opinion.<br/>2 <b>Q. Well, why is A-CAP involved at all in</b><br/>3 <b>insurance policies?</b><br/>4 A. It -- it came in the discussion of cash<br/>5 flows and cash forecasts and putting in a line item<br/>6 for \$3 million for insurance it stands out to any<br/>7 senior lender and sometimes warrants a discussion.<br/>8 <b>Q. Do they have to -- sorry, does A-CAP have to</b><br/>9 <b>approve cash outlays?</b><br/>10 A. No.<br/>11 <b>Q. Never?</b><br/>12 A. No.<br/>13 <b>Q. And then you missed -- mentioned a Carson</b><br/>14 <b>from A-CAP?</b><br/>15 A. Carson was -- is their analyst who had<br/>16 worked on some of the portfolio companies from their<br/>17 perspective, under -- trying to get their<br/>18 understanding with -- of -- of the operations, the<br/>19 values, things like that, what they could potentially<br/>20 be worth. Similar to what Province is now doing for<br/>21 Leadenhall. They -- they don't have an outside<br/>22 advisor. Carson tends to fill that role.<br/>23 <b>Q. And what do you discuss with Carson?</b><br/>24 A. Oh, I haven't talked to Carson in a while.<br/>25 We talked to him about -- about the Tammy transaction.</p>                                                                                                                                                                              |

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| <p style="text-align: right;">Page 50</p> <p>1 We talked to Carson about Uown. They had a -- you<br/>2 know, A-CAP wanted to -- was interested in -- in<br/>3 potentially purchasing Uown. We ended up hiring a<br/>4 banker, a third-party banker to -- to market those<br/>5 companies. A-CAP did buy it, but we marketed it<br/>6 through a banker. But those -- I probably -- I had<br/>7 some discussions early on with Carson about Uown and<br/>8 their proposal and why I may have thought it wasn't<br/>9 sufficient or things like that.</p> <p>10 <b>Q. Do you know whether B. Riley notified</b><br/>11 <b>Leadenhall of the Tammy transaction in advance?</b><br/>12 A. Yes, they did. We did.</p> <p>13 <b>Q. Did the terms of the transaction change</b><br/>14 <b>after Leadenhall was notified?</b><br/>15 A. They were changing. I think we had one<br/>16 discussion where it was going to be -- it -- this --<br/>17 the overall structure I don't think changed<br/>18 dramatically, but it got more specific. And as we got<br/>19 more information, we were able to -- it morphed a<br/>20 little bit. I mean, it took a while to put that<br/>21 transaction together. I think in the end we were able<br/>22 to enhance the value considerably from where it<br/>23 started out. But I do know it -- it changed a few<br/>24 times.</p> <p>25 <b>Q. All right.</b></p> | <p style="text-align: right;">Page 52</p> <p>1 everything was pulled, but I know these bullet points<br/>2 would have come from the scope of work (perusing).<br/>3 <b>Q. And this is a complete and accurate list of</b><br/>4 <b>your duties, or is it?</b><br/>5 A. I believe it is, yes.</p> <p>6 <b>Q. Okay. So you've been in control of 777 for</b><br/>7 <b>almost a year, right?</b><br/>8 A. 10 months, yes.</p> <p>9 <b>Q. Yes.</b><br/>10 <b>What are the most significant changes or</b><br/>11 <b>decisions you've made in that time period?</b><br/>12 A. Well, I think the -- the first part of the<br/>13 engagement was essentially to stabilize the cash flows<br/>14 and -- and manage the risk and manage the -- you know,<br/>15 essentially stop the bleeding. There was a lot going<br/>16 on. I think after that we're -- we were in the<br/>17 assessment phase of -- of various portfolio companies,<br/>18 trying to figure out exactly what things are worth,<br/>19 have a plan of attack for what we're going to do with<br/>20 some of these entities, start to act on some of those<br/>21 entities, raise cash, and then hopefully work with the<br/>22 professionals and attorneys to hopefully bring some<br/>23 settlement to these -- this litigation. But that -- I<br/>24 don't think we've been successful in that.<br/>25 But if you look at this -- this list of</p> |
| <p style="text-align: right;">Page 51</p> <p>1 MR. STARR: Mark this as -- let's just do<br/>2 Shapiro Exhibit 1. We can -- I don't want to keep<br/>3 number sequentially.<br/>4 Shapiro Exhibit 1.<br/>5 (Shapiro Exhibit 1 was marked for<br/>6 identification.)<br/>7 BY MR. STARR:<br/>8 <b>Q. Okay. Mr. Shapiro, you've been given</b><br/>9 <b>Shapiro Exhibit 1. Do you recognize that document?</b><br/>10 A. (Perusing.)<br/>11 Yes, I believe this is my declaration in the<br/>12 New York matter.<br/>13 <b>Q. Yes.</b><br/>14 <b>And you submitted that last year, right?</b><br/>15 A. Correct.<br/>16 <b>Q. If you turn to Paragraph 9 of this document.</b><br/>17 A. (Complying.)<br/>18 <b>Q. Do you see the paragraph that lists your --</b><br/>19 <b>the scope of your documents --</b><br/>20 A. Yes (perusing).<br/>21 <b>Q. -- there?</b><br/>22 A. Yes.<br/>23 <b>Q. Is that copied and pasted from the scope of</b><br/>24 <b>work?</b><br/>25 A. I believe it is. I'm not -- I'm not sure if</p>                                                                                                                                                                                                                                                                                                                                                                     | <p style="text-align: right;">Page 53</p> <p>1 duties, we definitely have our arms around the<br/>2 operating results. We've -- we've managed cash.<br/>3 We've developed financial projections. I think we've<br/>4 actually given a long-time cash flow forecast to -- to<br/>5 Leadenhall. We're analyzing the various business<br/>6 seg- -- segments. That's an ongoing exercise.<br/>7 Looking at, again, cash forecasts, restructuring<br/>8 alternatives. You know, this is -- these are things<br/>9 that we're working on every day.</p> <p>10 <b>Q. And if you go to Paragraph 3 here, do you</b><br/>11 <b>see where it says that B. Riley was retained to, among</b><br/>12 <b>other things, "resolve outstanding disputes involving</b><br/>13 <b>the 777 Entities, including the instant dispute"?</b><br/>14 A. Yes (perusing).<br/>15 <b>Q. And so that would be within the scope of B.</b><br/>16 <b>Riley's work as well, right?</b><br/>17 A. Yes.<br/>18 <b>Q. Okay.</b><br/>19 A. We are trying.<br/>20 <b>Q. And you've served in a similar capacity for</b><br/>21 <b>other distressed companies, right?</b><br/>22 A. Yes, I have.<br/>23 <b>Q. Many times?</b><br/>24 A. Yes, I have.<br/>25 <b>Q. Could you ballpark about how many companies</b></p>                                                                                                                                |

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| <p style="text-align: right;">Page 54</p> <p>1 <b>you've done that for?</b></p> <p>2 A. Probably close to two dozen companies.</p> <p>3 <b>Q. When you come into a distressed company, is</b></p> <p>4 <b>there a playbook that you typically involve -- you</b></p> <p>5 <b>typically follow?</b></p> <p>6 A. It -- it's not a formalized playbook, but I</p> <p>7 like to say 80 percent of what we see is consistent</p> <p>8 from company to company.</p> <p>9 <b>Q. Mm-hmm.</b></p> <p>10 A. There is -- there is distress. There's</p> <p>11 issues with cash flows. There's some sort of mistrust</p> <p>12 going on between lenders and -- and owners. Whether</p> <p>13 it's a public company or private company, whether it's</p> <p>14 private equity or whether it's an entrepreneur, all</p> <p>15 those things differ. But the industries are</p> <p>16 different. Your revenue control is different. Your</p> <p>17 regulations are different. But a lot of what we see</p> <p>18 is the same.</p> <p>19 <b>Q. And are there similar steps -- although</b></p> <p>20 <b>different industries, are there similar steps that you</b></p> <p>21 <b>take just to assess what needs to be done from the</b></p> <p>22 <b>get-go?</b></p> <p>23 A. I would say so, yes.</p> <p>24 <b>Q. What do you do?</b></p> <p>25 A. Get our arms around the cash is number one.</p>                                                                      | <p style="text-align: right;">Page 56</p> <p>1 I think we come in with a little bit of juandicide</p> <p>2 (phonetic), just to say, hey, there's something's</p> <p>3 here. Let's -- let's watch out and see if we see</p> <p>4 anything.</p> <p>5 But if we're making that determination,</p> <p>6 that's more of a forensic exercise. And depending on</p> <p>7 the case, whether it's in bankruptcy, whether it's out</p> <p>8 of bankruptcy. At some point that -- that examination</p> <p>9 will be done and it'll be different in each case. But</p> <p>10 most of the time that's not day one.</p> <p>11 <b>Q. And -- and when you get around to it, that's</b></p> <p>12 <b>a forensic accounting exercise?</b></p> <p>13 A. A lot of times it's forensics.</p> <p>14 <b>Q. Okay. Do you interview employees?</b></p> <p>15 A. Sometimes it's me. A lot of times I'll</p> <p>16 bring in our forensic -- we have -- half of our firm</p> <p>17 does forensic litigation support type work. And I'll</p> <p>18 bring in the people who do that every day for a</p> <p>19 living.</p> <p>20 <b>Q. So would -- would you or someone on your</b></p> <p>21 <b>team interview former management --</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. -- for instance, to assess whether fraud has</b></p> <p>24 <b>been committed?</b></p> <p>25 A. Yes. And a lot of times that's done with</p> |
| <p style="text-align: right;">Page 55</p> <p>1 Figure out -- try and put together a cash forecast as</p> <p>2 quick as possible. Identify key personnel, who are --</p> <p>3 who are the folks. You're coming in blind.</p> <p>4 <b>Q. Yep.</b></p> <p>5 A. And there are good people and bad people at</p> <p>6 every company, and trying to assess who you can -- who</p> <p>7 you can trust, who you can use, who you can work with</p> <p>8 is very critical to -- to engagements like this.</p> <p>9 Understanding the politics, if you will, of the owners</p> <p>10 and the lenders and where -- just how much anxiety is</p> <p>11 there, that plays into the -- the steps as well. I</p> <p>12 would say those are my -- my top three.</p> <p>13 <b>Q. Have you advised or managed a company where</b></p> <p>14 <b>there were allegations of fraud against the company's</b></p> <p>15 <b>management?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. How many times?</b></p> <p>18 A. I think it's three or four.</p> <p>19 <b>Q. And what do you do when you're in that</b></p> <p>20 <b>position? Do you try to assess whether fraud has been</b></p> <p>21 <b>perpetrated by management?</b></p> <p>22 A. Ultimately -- most of the times that is</p> <p>23 later on down the road. It depends on how things go.</p> <p>24 We -- we -- we come in fresh. We try not to make a</p> <p>25 judgment onto whether or not who's right, who's wrong.</p> | <p style="text-align: right;">Page 57</p> <p>1 counsel, with company counsel.</p> <p>2 <b>Q. Do you retain outside counsel for B. Riley</b></p> <p>3 <b>or do you use the company's preexisting outside</b></p> <p>4 <b>counsel?</b></p> <p>5 A. We would typically use the counsel that was</p> <p>6 engaged to help us on the company side.</p> <p>7 <b>Q. So like Smith Gambrell?</b></p> <p>8 A. Typically it would be the firm, like Smith</p> <p>9 Gambrell.</p> <p>10 <b>Q. I just mean in this -- in this scenario,</b></p> <p>11 <b>Smith Gambrell is --</b></p> <p>12 A. Mostly likely if we -- if we were going to</p> <p>13 do a fraud information, there are -- there are --</p> <p>14 there are two restructuring firms working for us right</p> <p>15 now. There's Smith Gambrell and Berger Singerman. It</p> <p>16 would likely be one of those firms doing the forensic</p> <p>17 exercise.</p> <p>18 <b>Q. Mm-hmm.</b></p> <p>19 <b>And when you're attempting to determine</b></p> <p>20 <b>whether fraud has occurred, do you or does your team</b></p> <p>21 <b>review pending litigation?</b></p> <p>22 A. Yes. We look at all the facts and</p> <p>23 circumstances.</p> <p>24 <b>Q. Do you or your team use any specialized</b></p> <p>25 <b>accounting software to analyze financial data?</b></p>                                                            |

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| <p style="text-align: right;">Page 58</p> <p>1 A. I -- yes, they do.</p> <p>2 <b>Q. Do you know what that software is?</b></p> <p>3 A. I don't. I know we have various packages.</p> <p>4 <b>Q. Have you ever served as a restructuring</b></p> <p>5 <b>officer or advisor for a company where the allegations</b></p> <p>6 <b>of fraud on the part of management were found to be</b></p> <p>7 <b>credible?</b></p> <p>8 A. Yes.</p> <p>9 <b>Q. When was that?</b></p> <p>10 A. I was in a case in Utah in 2017 and '18</p> <p>11 called Alliance Health. We came in after the DOJ</p> <p>12 raided the offices and took all their laptops and</p> <p>13 servers.</p> <p>14 <b>Q. So how did you determine that fraud had</b></p> <p>15 <b>occurred?</b></p> <p>16 A. (No verbal response given.)</p> <p>17 <b>Q. Was it the DOJ raid?</b></p> <p>18 A. I think it was the DOJ raid.</p> <p>19 <b>Q. Did you make an independent assessment and</b></p> <p>20 <b>reach an independent conclusion?</b></p> <p>21 A. I don't think we had to on that one. That</p> <p>22 was a bankruptcy and we were selling the -- the assets</p> <p>23 at a 363 sale. Ultimately -- yeah, I don't think we</p> <p>24 made a determination. There weren't too many funds to</p> <p>25 do an independent investigation.</p>                                                                                                                                                                                                                                                   | <p style="text-align: right;">Page 60</p> <p>1 in situations like that.</p> <p>2 <b>Q. And does your approach to ferreting out</b></p> <p>3 <b>fraud differ depending on who retains you?</b></p> <p>4 A. Typically no.</p> <p>5 <b>Q. Okay. Have you investigated the allegations</b></p> <p>6 <b>of fraud at 777 or Suttonpark?</b></p> <p>7 A. 777, no. At Suttonpark, we've attempted --</p> <p>8 we haven't made a determination on fraud or what</p> <p>9 happened. We're trying to look at the collateral</p> <p>10 basis in determining whether or not there's shortfall.</p> <p>11 So kind of half of an investigation.</p> <p>12 <b>Q. Okay.</b></p> <p>13 A. We haven't gone back and figured out how it</p> <p>14 happened and why it happened and who did what.</p> <p>15 <b>Q. So what have you done then to investigate</b></p> <p>16 <b>the alleged fraud at Suttonpark?</b></p> <p>17 A. To find out what happened and who did what?</p> <p>18 <b>Q. Yes. I'm asking what have you -- what have</b></p> <p>19 <b>you done --</b></p> <p>20 A. We've done -- we've -- we've --</p> <p>21 <b>Q. -- investigatively?</b></p> <p>22 A. Investigatively we've tried to validate</p> <p>23 the -- the record -- books and records of the company</p> <p>24 to determine whether assets either exist or purchased</p> <p>25 or double pledged. Jim Howard and Teresa are the --</p>        |
| <p style="text-align: right;">Page 59</p> <p>1 <b>Q. Is that the only time that you can think of</b></p> <p>2 <b>in your career?</b></p> <p>3 A. There was another one called Lockwood, that</p> <p>4 there were allegations of fraud back and forth between</p> <p>5 Wells Fargo and the owner of the company. We were</p> <p>6 never able to determine what -- what happened there.</p> <p>7 Again, it was in bankruptcy. It went to the trustee.</p> <p>8 I wasn't the trustee, so I don't know what happened</p> <p>9 there.</p> <p>10 <b>Q. Okay. In situations where there are</b></p> <p>11 <b>allegations of fraud on the part of management or</b></p> <p>12 <b>former management, who would B. Riley typically be</b></p> <p>13 <b>hired by in such situations? And what I mean by -- is</b></p> <p>14 <b>it, you know, by the company -- by the company's old</b></p> <p>15 <b>management? By the company's new management? By</b></p> <p>16 <b>creditors? By outside counsel?</b></p> <p>17 A. It's different. Sometimes -- sometimes</p> <p>18 existing management in the -- is there and you're</p> <p>19 retained by existing management. That's a little bit</p> <p>20 of a difficult situation when they're -- the</p> <p>21 allegations are against them. Sometimes management</p> <p>22 has been replaced and we're -- we're brought in by new</p> <p>23 management. Other times there's independent directors</p> <p>24 who are put in with existing management and a</p> <p>25 committee or an independent manager would bring us in</p> | <p style="text-align: right;">Page 61</p> <p>1 Teresa Licamora are -- they're point on that and --</p> <p>2 and they are the ones who are running that --</p> <p>3 MR. MORLAN: Audio cut off.</p> <p>4 THE WITNESS: Audio cut off.</p> <p>5 MS. NATHANSON: Sounds fine to me.</p> <p>6 MR. STARR: Jim Howard -- he said Jim Howard</p> <p>7 and Teresa Licamora were running point.</p> <p>8 BY MR. STARR:</p> <p>9 <b>Q. Can you please continue? Sorry.</b></p> <p>10 A. They -- they were the ones actually doing</p> <p>11 the investigation, so it's a little bit of secondhand</p> <p>12 information from me. They -- but I'm -- they report</p> <p>13 up, and I understand that that's the -- the -- what</p> <p>14 they have been doing is trying to validate the -- the</p> <p>15 bar and basis.</p> <p>16 <b>Q. And why haven't you investigated fraud at</b></p> <p>17 <b>777?</b></p> <p>18 A. It's priorities. It's -- it's cost. You</p> <p>19 know, we're trying to manage costs. At some point,</p> <p>20 you know, if -- if those -- if those investigations</p> <p>21 are to be funded, we'll do those investigations.</p> <p>22 We're starting to do more actually. We were actually</p> <p>23 starting to ramp up the investigations in 777 Re prior</p> <p>24 to Leadenhall exercising their proxy. I assume</p> <p>25 Leadenhall is going to take over that investigation.</p> |

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| <p style="text-align: right;">Page 62</p> <p>1 But to the extent we're needed on that, that</p> <p>2 was something that we were -- that was actually the</p> <p>3 number one priority of where we were going to with the</p> <p>4 investigation was 777 Re.</p> <p>5 <b>Q. Who sets the priorities in terms of whether</b></p> <p>6 <b>to investigate or not or focus on some other project?</b></p> <p>7 A. Ian and me in collaboration with counsel.</p> <p>8 <b>Q. You're aware that creditors have filed</b></p> <p>9 <b>lawsuits asserting fraud claims against 777 other than</b></p> <p>10 <b>just Leadenhall, right?</b></p> <p>11 A. Yes. ING.</p> <p>12 <b>Q. I'm sorry, are there any others? Are you</b></p> <p>13 <b>aware of any others?</b></p> <p>14 A. I'm -- I'm sure there are others out there.</p> <p>15 I -- I can't recall at this point in time.</p> <p>16 <b>Q. Have you heard of Obra Capital Management?</b></p> <p>17 <b>Obra Capital, O-B-R-A Capital Management?</b></p> <p>18 A. No, I have not.</p> <p>19 <b>Q. Have you heard of the MALT Family Trust</b></p> <p>20 <b>case?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. Okay. What's your understanding of that</b></p> <p>23 <b>case?</b></p> <p>24 A. That involves assets that are -- a company</p> <p>25 called Phoenicia. I mentioned before that ass- --</p>                            | <p style="text-align: right;">Page 64</p> <p>1 controlled by Leadenhall.</p> <p>2 <b>Q. The investigations are controlled --</b></p> <p>3 MR. MORLAN: Can you speak up, please, sir?</p> <p>4 I'm having trouble hearing you. You're trailing</p> <p>5 off at the end.</p> <p>6 THE WITNESS: We don't control -- Leadenhall</p> <p>7 exercised their proxy on 777 Re. We were hoping</p> <p>8 to take back that company so we would have access</p> <p>9 to the books and records to try and figure out</p> <p>10 what exactly happened when the recapture was done.</p> <p>11 BY MR. STARR:</p> <p>12 <b>Q. So when you say Leadenhall controls that</b></p> <p>13 <b>investigation, you mean the -- the -- the books and</b></p> <p>14 <b>records that --</b></p> <p>15 A. Correct, they control the books and records.</p> <p>16 <b>Q. Okay. So setting aside 777 Re, has you or</b></p> <p>17 <b>your team investigated any claims 777 may have against</b></p> <p>18 <b>A-CAP -- 777 Partners may have against A-CAP?</b></p> <p>19 A. Not at this time.</p> <p>20 <b>Q. No?</b></p> <p>21 <b>Do you plan to?</b></p> <p>22 A. I don't know right now. We've looked at the</p> <p>23 documents and how they've exercised their rights, and</p> <p>24 so far we haven't made -- at least counsel has looked</p> <p>25 through those, and we haven't seen anything that</p> |
| <p style="text-align: right;">Page 63</p> <p>1 assets of the GO7 entities were -- were sold. Timothy</p> <p>2 O'Neil-Dunne was a principal. And he's the -- I think</p> <p>3 the beneficiary of the MALT Family Trust. And there</p> <p>4 were allegations of -- of breach of fiduciary duties,</p> <p>5 I believe, related to 777 and how they managed that</p> <p>6 company and allegedly destroyed value after he sold</p> <p>7 the company to 777. It's a tech -- airline technology</p> <p>8 company.</p> <p>9 <b>Q. And you haven't investigated the accusations</b></p> <p>10 <b>in any of those cases --</b></p> <p>11 A. No.</p> <p>12 <b>Q. -- right? Okay.</b></p> <p>13 <b>If there were funding for an investigation</b></p> <p>14 <b>of fraud at 777 Partners, would you agree that it --</b></p> <p>15 <b>an investigation should be done?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. And why is that?</b></p> <p>18 A. Again, we're fiduciaries. We're supposed to</p> <p>19 look out for all stakeholders. There's allegations of</p> <p>20 fraud. I think we have a duty to explore those</p> <p>21 allegations.</p> <p>22 <b>Q. Have you or has your team investigated any</b></p> <p>23 <b>claims that 777 may have against A-CAP?</b></p> <p>24 A. That would've been part of the investigation</p> <p>25 into 777 Re, which now that investigation is</p> | <p style="text-align: right;">Page 65</p> <p>1 they'd done that they -- since we've been in -- they</p> <p>2 haven't done anything since we've been in here that</p> <p>3 counsel doesn't believe they were entitled to do.</p> <p>4 <b>Q. Who is counsel in this instance?</b></p> <p>5 A. Smith Gambrell.</p> <p>6 <b>Q. Okay. Turning back to Suttonpark, the</b></p> <p>7 <b>Suttonpark investigation rather. Do you know whether,</b></p> <p>8 <b>as part of that investigation, records in the MPFin</b></p> <p>9 <b>system have been reviewed?</b></p> <p>10 A. I believe they have.</p> <p>11 <b>Q. Do you know what the MPFin system is?</b></p> <p>12 A. Yes. It's an enterprise system for</p> <p>13 Suttonpark.</p> <p>14 <b>Q. It's for tracking --</b></p> <p>15 A. Tracking -- for tracking assets in -- in the</p> <p>16 various entities.</p> <p>17 <b>Q. Okay. And receivables --</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. -- and collateral securing loans?</b></p> <p>20 A. Correct.</p> <p>21 <b>Q. Okay. And in connection with that</b></p> <p>22 <b>investigation, was counsel involved in that</b></p> <p>23 <b>investigation?</b></p> <p>24 A. Again, Jim was running that. I don't know</p> <p>25 to what extent he was -- he had counsel involved.</p>                                                                                                |

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| <p style="text-align: right;">Page 66</p> <p>1 Q. Have the findings -- have any findings of<br/>2 that investigation been memorialized?<br/>3 A. I don't know.<br/>4 Q. Well, have you learned of any findings?<br/>5 A. Yes.<br/>6 Q. How did you learn of those findings?<br/>7 A. Through e-mails, conversations informally.<br/>8 I don't know if there's been a -- I don't believe<br/>9 there's been a formal report done.<br/>10 Q. Okay. Who are those e-mails between?<br/>11 A. It would vary. It would be Jim Howard, Ian<br/>12 Ratner, myself, counsel, Teresa Licamora, Chris --<br/>13 internal counsel Chris O'Reilly, Mollie Wander, Jon<br/>14 Walder.<br/>15 Q. Is anyone from Cadwalader, Wickersham &amp; Taft<br/>16 on those mails?<br/>17 A. I don't -- I don't know.<br/>18 Q. What about Jill Gettman, was she on any of<br/>19 those e-mails?<br/>20 A. Yeah, I don't know.<br/>21 Q. Well, you received them, right?<br/>22 A. I would have received them, yes.<br/>23 Q. But you can't recall?<br/>24 A. I can't recall.<br/>25 Q. Okay. Did you ever have any discussions</p> | <p style="text-align: right;">Page 68</p> <p>1 MR. STARR: Do y'all want to take a break?<br/>2 THE WITNESS: I would love to.<br/>3 MR. PELLEGRINO: Sure. Thank you.<br/>4 MR. STARR: Off the record.<br/>5 THE VIDEOGRAPHER: Okay. Going off the<br/>6 record. The time is 11:38.<br/>7 (A recess was taken.)<br/>8 THE VIDEOGRAPHER: Okay. We're back on the<br/>9 record. The time is now 11:54.<br/>10 BY MR. STARR:<br/>11 Q. Okay. Mr. Shapiro, when did you first hear<br/>12 of Saiph Consulting?<br/>13 A. It would have been when Leadenhall wanted to<br/>14 retain Saiph for the collateral audit on the<br/>15 Suttonpark collateral.<br/>16 Q. When was that?<br/>17 A. I believe it was June of 2024, somewhere<br/>18 around June. Might have been late May.<br/>19 Q. So you're not aware that Leadenhall tried to<br/>20 hire Saiph in 2023?<br/>21 A. I've heard that after the fact, but I wasn't<br/>22 aware at the time.<br/>23 Q. Okay. Have you determined whether -- well,<br/>24 what have you heard after the fact about that?<br/>25 A. I've just seen in the -- in the pleadings</p> |
| <p style="text-align: right;">Page 67</p> <p>1 about the scope of -- or how to conduct that<br/>2 investigation into fraud at Suttonpark?<br/>3 A. No. Jim would have run it. Jim's a former<br/>4 banker and has done many fraud examinations.<br/>5 Q. So you didn't participate in those<br/>6 discussions?<br/>7 A. I don't believe I did.<br/>8 Q. Okay. Do you know whether any investigation<br/>9 was done into an alteration or deletion of data in the<br/>10 MPFin system prior to August 2024?<br/>11 A. I don't know.<br/>12 Q. Okay. Are you aware of any investigations<br/>13 into 777 by federal or state authorities?<br/>14 A. Yes.<br/>15 Q. Which government agencies are you --<br/>16 MR. STARR: Withdrawn.<br/>17 BY MR. STARR:<br/>18 Q. Which government agencies are investigating<br/>19 777 to your knowledge?<br/>20 A. Directly, I believe the Department of<br/>21 Justice. Indirectly, potentially the SEC.<br/>22 Q. Okay. Have you had any contact with anyone<br/>23 from the DOJ or SEC?<br/>24 A. I have not.<br/>25 Q. Okay.</p>                                     | <p style="text-align: right;">Page 69</p> <p>1 and documents in this case that Leadenhall attempted<br/>2 to retain Saiph back in 2023.<br/>3 Q. Okay. And did you ever work directly with<br/>4 Saiph yourself?<br/>5 A. No.<br/>6 Q. In addition to the audit that Saiph<br/>7 performed for Leadenhall, Saiph also performed a<br/>8 collateral audit for Northwestern Mutual; is that...<br/>9 THE COURT REPORTER: Sorry, say it again.<br/>10 BY MR. STARR:<br/>11 Q. In addition to the audit Saiph performed for<br/>12 Leadenhall, Saiph also performed a collateral audit<br/>13 for Northwestern Mutual Life, right?<br/>14 A. What time period?<br/>15 Q. In the same time period, summer 2024.<br/>16 MR. PELLEGRINO: I'm going to object to<br/>17 form.<br/>18 THE WITNESS: I know they were engaged to<br/>19 perform that audit.<br/>20 BY MR. STARR:<br/>21 Q. Do you know whether it went forward?<br/>22 A. It went forward. I'm not sure if it was<br/>23 completed.<br/>24 Q. Okay. Do you know Paul Kosinski?<br/>25 A. I've never met Paul.</p>                                            |

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| <p style="text-align: right;">Page 70</p> <p><b>1 Q. Have you ever communicated with</b><br/> <b>2 Mr. Kosinski?</b><br/> <b>3 A.</b> I believe we may have been on e-mails<br/> <b>4</b> together, but I'm not sure if I've ever been on a<br/> <b>5</b> phone call with him.<br/> <b>6 Q. Do you know Lauren Boersig (phonetic)?</b><br/> <b>7 A.</b> I do not.<br/> <b>8 Q. Do you know how many sets of credentials</b><br/> <b>9 were issued to Saiph by 777 Partners in connection</b><br/> <b>10 with the Leadenhall audit?</b><br/> <b>11 MR. PELLEGRINO:</b> Objection to form.<br/> <b>12 BY MR. STARR:</b><br/> <b>13 Q. You can answer.</b><br/> <b>14 A.</b> I understand there were two credentials<br/> <b>15</b> provided.<br/> <b>16 Q. Do you know which Saiph personnel were</b><br/> <b>17 provided credentials?</b><br/> <b>18 A.</b> Paul Kosinski and Lauren, I -- I don't know<br/> <b>19</b> her --<br/> <b>20 Q. Boersig.</b><br/> <b>21 A.</b> Boersig.<br/> <b>22 Q. And where did you get that understanding?</b><br/> <b>23 Where do you learn those facts?</b><br/> <b>24 A.</b> I learned those facts from some of the<br/> <b>25</b> pleadings in this case and the expert report.</p> | <p style="text-align: right;">Page 72</p> <p><b>1 specifically?</b><br/> <b>2 A.</b> It would have been David Pellegrino, John<br/> <b>3</b> McCarthy, Shelly DeRousse.<br/> <b>4 Q. But you provided input on the decision to</b><br/> <b>5 name Leadenhall in this lawsuit?</b><br/> <b>6 A.</b> Yes, amongst others.<br/> <b>7 Q. How did you make that decision if you didn't</b><br/> <b>8 know any of the facts of this case before it was</b><br/> <b>9 filed?</b><br/> <b>10 MR. PELLEGRINO:</b> Objection to form.<br/> <b>11 BY MR. STARR:</b><br/> <b>12 Q. You can answer.</b><br/> <b>13 A.</b> Can you say that again?<br/> <b>14 Q. Yeah.</b><br/> <b>15 How did you make that decision to name</b><br/> <b>16 Leadenhall in this lawsuit if you didn't know any</b><br/> <b>17 facts about the case before it was filed?</b><br/> <b>18 MR. PELLEGRINO:</b> Same objection.<br/> <b>19 THE WITNESS:</b> But we did know the facts<br/> <b>20</b> before. I didn't say...<br/> <b>21 BY MR. STARR:</b><br/> <b>22 Q. Well, I -- I --</b><br/> <b>23 A.</b> If I said I didn't know the facts before the<br/> <b>24</b> case, I -- I must have misspoke, but we didn't -- I<br/> <b>25</b> did know the facts for the case before it filed.</p>                                                                                                                                                                                                                                                             |
| <p style="text-align: right;">Page 71</p> <p><b>1 Q. Were you aware of those facts -- so you</b><br/> <b>2 weren't aware of those facts before the case was</b><br/> <b>3 filed?</b><br/> <b>4 A.</b> Before which case was filed?<br/> <b>5 Q. This case, the case 777 and Suttonpark had</b><br/> <b>6 filed against Leadenhall.</b><br/> <b>7 A.</b> No, I was not aware of that.<br/> <b>8 Q. Do you know when Davis resigned from 777</b><br/> <b>9 Partners?</b><br/> <b>10 A.</b> I understand he resigned in April of 2024.<br/> <b>11 Q. That was before B. Riley was retained,</b><br/> <b>12 right?</b><br/> <b>13 A.</b> Correct.<br/> <b>14 Q. Did you ever meet Mr. Davis?</b><br/> <b>15 A.</b> I have not.<br/> <b>16 Q. Have you ever communicated with Mr. Davis?</b><br/> <b>17 A.</b> No.<br/> <b>18 Q. Was it your idea to name Leadenhall in this</b><br/> <b>19 lawsuit?</b><br/> <b>20 A.</b> It was a group decision.<br/> <b>21 Q. Whose idea was it?</b><br/> <b>22 A.</b> It would have been myself, Ian Ratner,<br/> <b>23</b> external counsel at Smith Gambrell, and internal<br/> <b>24</b> counsel at 777.<br/> <b>25 Q. So which counsel at Smith Gambrell</b></p>                    | <p style="text-align: right;">Page 73</p> <p><b>1 Q. I asked you earlier where you got your</b><br/> <b>2 understanding of the facts regarding credentials</b><br/> <b>3 issued to Saiph and Mr. Davis's resignation, and you</b><br/> <b>4 said that you learned those facts from some of the</b><br/> <b>5 pleadings in this case, correct?</b><br/> <b>6 A.</b> Correct. But you asked me about two items.<br/> <b>7 Q. Okay. So -- so you investigated the</b><br/> <b>8 allegation -- did you investigate the allegations made</b><br/> <b>9 in this complaint before it was filed?</b><br/> <b>10 A.</b> I mean, I spoke to the company and I spoke<br/> <b>11</b> to -- either spoke to or on e-mails and correspondence<br/> <b>12</b> with the advisors who were hired to do the<br/> <b>13</b> investigation.<br/> <b>14 Q. So who at the company did you speak to about</b><br/> <b>15 the allegations made in this complaint?</b><br/> <b>16 A.</b> It would have been the same three. It would<br/> <b>17</b> have been Chris O'Reilly, Jon Walder, Mollie Wander,<br/> <b>18</b> Shawn Taheri, potentially JC Mendoza.<br/> <b>19 Q. And who is Chris O'Reilly?</b><br/> <b>20 A.</b> Senior counsel. He's -- he's senior --<br/> <b>21</b> general counsel at 777.<br/> <b>22 Q. So just so I'm clear, did you personally</b><br/> <b>23 investigate the claims made in this case or were they</b><br/> <b>24 investigated by others?</b><br/> <b>25 A.</b> They were investigated by others, and they</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 reported up their findings.</p> <p>2 <b>Q. So on the company side, it was those</b></p> <p>3 <b>individuals you just mentioned?</b></p> <p>4 A. Correct.</p> <p>5 <b>Q. And then you referred to some outside</b></p> <p>6 <b>advisors as well?</b></p> <p>7 A. That would have been Eric Mazur, who was the</p> <p>8 expert in this engagement, and then outside counsel.</p> <p>9 <b>Q. And that would be Smith Gambrell?</b></p> <p>10 A. Correct.</p> <p>11 <b>Q. And inside counsel?</b></p> <p>12 A. Correct.</p> <p>13 <b>Q. Mollie Wander?</b></p> <p>14 A. Chris O'Reilly, Jon Walder. I think Mollie</p> <p>15 was in some of those conversations.</p> <p>16 <b>Q. And so on the company side, what did they</b></p> <p>17 <b>tell you about their investigation?</b></p> <p>18 MR. PELLEGRINO: Objection. I'm just going</p> <p>19 to warn you not to reveal the substance of</p> <p>20 communications with counsel, but not everyone you</p> <p>21 listed is counsel, so. And -- and to the extent</p> <p>22 they provided information in connection with</p> <p>23 consultation with counsel, I have to direct you</p> <p>24 not to answer.</p> <p>25 THE WITNESS: I...</p> | <p style="text-align: right;">Page 76</p> <p>1 MR. STARR: You mean with your -- with your</p> <p>2 client or with Mr. Shapiro?</p> <p>3 MR. PELLEGRINO: Yes.</p> <p>4 MR. STARR: Because I want to have the</p> <p>5 discussion of privilege about what he's going to</p> <p>6 answer on the record. But if you want to discuss</p> <p>7 with him separately, that's okay.</p> <p>8 I'm putting your position about privilege</p> <p>9 and work product on the record is what I'm saying.</p> <p>10 MR. PELLEGRINO: Right.</p> <p>11 MR. STARR: So what do you want to do?</p> <p>12 MR. PELLEGRINO: I would like to speak with</p> <p>13 Mr. Shapiro about the possibility of privilege.</p> <p>14 MR. STARR: Okay.</p> <p>15 THE VIDEOGRAPHER: Okay. Going off the</p> <p>16 record. The time is 12:06.</p> <p>17 (A recess was taken.)</p> <p>18 THE VIDEOGRAPHER: Okay. We're back on the</p> <p>19 record. The time is now 12:15.</p> <p>20 MR. PELLEGRINO: Mr. Starr, would you mind</p> <p>21 re-asking your question?</p> <p>22 MR. STARR: I'm going to ask a different</p> <p>23 question.</p> <p>24 MR. PELLEGRINO: Okay.</p> <p>25 BY MR. STARR:</p>                                                                                                                                                                               |
| <p style="text-align: right;">Page 75</p> <p>1 MR. PELLEGRINO: I also want to assert a</p> <p>2 work product privilege.</p> <p>3 MR. STARR: On what basis?</p> <p>4 MR. PELLEGRINO: To the extent they were</p> <p>5 conducting an investigation under direction of</p> <p>6 counsel.</p> <p>7 MR. STARR: Under direction of counsel?</p> <p>8 MR. PELLEGRINO: Yes.</p> <p>9 MR. STARR: Okay.</p> <p>10 BY MR. STARR:</p> <p>11 <b>Q. So the question is: What did you learn from</b></p> <p>12 <b>the nonlawyers employed by the company about the</b></p> <p>13 <b>claims made in the complaint?</b></p> <p>14 A. Well, if the investigation -- the entire</p> <p>15 investigation was done at the request of counsel,</p> <p>16 what -- how does -- I mean, just --</p> <p>17 THE WITNESS: Should I answer? Should I not</p> <p>18 answer? I don't know.</p> <p>19 MR. PELLEGRINO: Let's take a break to</p> <p>20 discuss privilege.</p> <p>21 MR. STARR: No, let's do it -- let's do it</p> <p>22 on -- let's do it on the record.</p> <p>23 MR. PELLEGRINO: No, we're going to -- we're</p> <p>24 going to discuss the potential for privilege. I</p> <p>25 have that right, so --</p>                                            | <p style="text-align: right;">Page 77</p> <p>1 <b>Q. So, Mr. Shapiro, earlier you testified that</b></p> <p>2 <b>Mr. Davis resigned or left 777 Partners before you</b></p> <p>3 <b>were engaged by them, right?</b></p> <p>4 A. Correct.</p> <p>5 <b>Q. Do you know anything about the circumstances</b></p> <p>6 <b>of Davis's departure?</b></p> <p>7 A. Given the investigation, I checked into the</p> <p>8 payroll records and talked with people at the company,</p> <p>9 and they weren't aware of any disputes or reason he</p> <p>10 resigned. And I wasn't able to -- no one heard of any</p> <p>11 reason as to why he resigned.</p> <p>12 <b>Q. And who did you speak with on those</b></p> <p>13 <b>subjects?</b></p> <p>14 A. It would have been the same three attorneys,</p> <p>15 Chris O'Reilly, Mollie Wander, and Jon Walder who --</p> <p>16 and -- and JC Mendoza who had the historical knowledge</p> <p>17 of -- of his employment and his resignation.</p> <p>18 <b>Q. And how about Mr. Taheri?</b></p> <p>19 A. I don't think I talked to Shawn about that</p> <p>20 one.</p> <p>21 <b>Q. Okay. Did Mr. Mendoza mention a performance</b></p> <p>22 <b>review that he gave to Mr. Davis prior to his</b></p> <p>23 <b>resignation?</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. What did he tell you about that?</b></p> |

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| <p style="text-align: right;">Page 78</p> <p>1 A. I don't recall. I -- I remember there was<br/>2 something about an employment review, but I don't<br/>3 remember what it was.<br/>4 <b>Q. Did he say it was a negative performance<br/>5 review?</b><br/>6 A. I don't recall.<br/>7 <b>Q. Okay. If an employer failed to pay an<br/>8 employee a bonus that the employee felt entitled to,<br/>9 would you describe that as a payment dispute?</b><br/>10 A. If he felt he was entitled to a bonus?<br/>11 <b>Q. And got no bonus.</b><br/>12 A. I -- I would assume that would be a payroll<br/>13 dispute.<br/>14 <b>Q. A payment dispute is what I said.</b><br/>15 <b>Okay. Do you know whether Mr. -- Mr. Davis<br/>16 was paid a bonus in the spring of 2024?</b><br/>17 A. I don't believe it was.<br/>18 <b>Q. He was not? Okay.</b><br/>19 <b>Do you know whether Mr. Davis was an<br/>20 employee of -- an employee of Saiph or an independent<br/>21 contractor?</b><br/>22 MR. PELLEGRINO: Objection to form.<br/>23 THE WITNESS: I don't know.<br/>24 BY MR. STARR:<br/>25 <b>Q. Do you know what Mr. Davis was working on</b></p> | <p style="text-align: right;">Page 80</p> <p>1 <b>Q. And who at 777 was involved in that<br/>2 decision?</b><br/>3 A. Basically everybody. Chris O'Reilly, Jon<br/>4 Walder, Mollie Wander, Josh Wander, Steve Pasko, Shawn<br/>5 Taheri, JC Mendoza. I think that's it.<br/>6 <b>Q. And what was your position on that issue,<br/>7 whether to give Saiph access for the collateral audit?</b><br/>8 A. I'll say it's myself and Jim Howard, our<br/>9 position. We wanted to be supportive. We took the<br/>10 position that Leadenhall was entitled to information<br/>11 in conjunction with a traditional collateral audit.<br/>12 We believed that 777 could put the controls in place<br/>13 to prevent Saiph from accessing data they weren't<br/>14 otherwise entitled to, which they all expressed<br/>15 reserv- -- reservations about. But Jim and I pushed<br/>16 the issue and allowed them to have the access. Did<br/>17 not -- did not end up too well, but we were the ones<br/>18 who pushed it. Everybody at the company was against<br/>19 letting them coming in.<br/>20 <b>Q. And what kind of access did Saiph have for<br/>21 the Northwestern Mutual audit?</b><br/>22 A. I don't know technically what access they<br/>23 had.<br/>24 <b>Q. Do you know technically what access Saiph<br/>25 had for the Leadenhall audit?</b></p> |
| <p style="text-align: right;">Page 79</p> <p>1 <b>for Saiph?</b><br/>2 A. No, I don't.<br/>3 <b>Q. Earlier we discussed that Leadenhall sought<br/>4 to retain Saiph for the collateral audit back in the<br/>5 summer of 2023. Do you know why the audit was<br/>6 delayed?</b><br/>7 A. I don't.<br/>8 <b>Q. Okay. Do you have an opinion on whether<br/>9 Saiph is a competitor of 777 Partners?</b><br/>10 A. I have no opinion.<br/>11 <b>Q. Do you -- do you think they are a<br/>12 competitor?</b><br/>13 A. I really don't know what Saiph does. I just<br/>14 know that they were engaged for a collateral audit.<br/>15 <b>Q. Okay. Were you yourself involved in the<br/>16 decision of whether to -- whether plaintiffs would<br/>17 give Saiph access to its computer systems to conduct<br/>18 the audit?</b><br/>19 A. I was.<br/>20 <b>Q. And who else was involved in that decision?</b><br/>21 A. From the B. Riley side, it was myself and<br/>22 Jim Howard primarily.<br/>23 <b>Q. Okay. Anyone from 777?</b><br/>24 A. Well, 777 was against letting Saiph be<br/>25 retained for the audit.</p>                           | <p style="text-align: right;">Page 81</p> <p>1 A. I don't. Shawn would be a better position<br/>2 than me.<br/>3 <b>Q. What's the nature of the business<br/>4 relationship between Northwestern Mutual and<br/>5 Suttonpark?</b><br/>6 A. Suttonpark is a servicer of a Northwest<br/>7 Mutual portfolio, similar to what Suttonpark was doing<br/>8 for Leadenhall.<br/>9 <b>Q. And what was the purpose of Northwestern<br/>10 Mutual's audit?</b><br/>11 A. It's totally separate from Leadenhall's.<br/>12 They were doing their own collateral audit.<br/>13 <b>Q. Yes.</b><br/>14 <b>What was the purpose of North -- of that<br/>15 collateral audit, Northwestern Mutual's?</b><br/>16 A. I don't know the specifics of what that -- I<br/>17 haven't seen the engagement letter for that one.<br/>18 <b>Q. Was Northwestern Mutual concerned about a<br/>19 collateral shortfall?</b><br/>20 A. I don't know. I didn't speak with<br/>21 Northwestern Mutual.<br/>22 <b>Q. Well, do you know what prompted their audit?</b><br/>23 A. I don't.<br/>24 <b>Q. Are you aware of any other audits --<br/>25 collateral audits done by other business partners of</b></p>                                                                                                                                                                                |

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| <p style="text-align: right;">Page 82</p> <p><b>1 777 or Suttonpark other than Northwestern Mutual and</b></p> <p><b>2 Leadenhall?</b></p> <p>3 A. I can't say. Jim Howard would be a better</p> <p>4 position than me to -- and Teresa to say whether or</p> <p>5 not -- which audits have been done and which ones have</p> <p>6 not been done.</p> <p>7 <b>Q. Okay. With respect to Northwestern Mutual's</b></p> <p><b>8 audit, did anyone at 777 Partners object to</b></p> <p><b>9 Northwestern Mutual's retention of Saiph for that</b></p> <p><b>10 audit?</b></p> <p>11 A. I'm not aware of it.</p> <p>12 <b>Q. So they objected to Leadenhall's --</b></p> <p>13 MR. STARR: Withdraw that question.</p> <p>14 BY MR. STARR:</p> <p>15 <b>Q. So 777 Partners' employees objected to</b></p> <p><b>16 Leadenhall's retention of Saiph for the collateral</b></p> <p><b>17 audit but not to Northwestern Mutual's retention of</b></p> <p><b>18 Saiph?</b></p> <p>19 A. I don't know if they did or not.</p> <p>20 <b>Q. Okay. You're only aware of the</b></p> <p><b>21 objections --</b></p> <p>22 A. Correct.</p> <p>23 <b>Q. -- as to Leadenhall?</b></p> <p>24 A. Correct.</p> <p>25 <b>Q. Okay.</b></p>                           | <p style="text-align: right;">Page 84</p> <p><b>1 is in the back, on the back page, right?</b></p> <p>2 A. Yes (perusing).</p> <p>3 <b>Q. And it begins with an e-mail from</b></p> <p><b>4 Mr. Taheri, right? He's -- he's stating that -- and</b></p> <p><b>5 you're copied on this part of the e-mail, right?</b></p> <p>6 A. Yes (perusing).</p> <p>7 <b>Q. And Mr. Taheri says that Paul Kosinski and</b></p> <p><b>8 Noah Davis just walked into his office and he's asking</b></p> <p><b>9 about access for Mr. Davis. Do you see that?</b></p> <p>10 A. Yes, I do (perusing).</p> <p>11 <b>Q. If you go to the next page.</b></p> <p>12 A. (Complying.)</p> <p>13 <b>Q. A few e-mails up, there's one from</b></p> <p><b>14 Mr. Howard, middle of the page. Mr. Howard says that</b></p> <p><b>15 Davis is "here to generate a list of payees for all</b></p> <p><b>16 the checks going to Wells." Do you see that?</b></p> <p>17 A. Yes (perusing).</p> <p>18 <b>Q. What is Mr. Howard referring to, "list of</b></p> <p><b>19 all payees for checks going Wells"? Do you know?</b></p> <p>20 A. I don't know. It was part of the collateral</p> <p>21 audit that was needed.</p> <p>22 <b>Q. And he says that's "what we need to give M&amp;T</b></p> <p><b>23 to fix that problem."</b></p> <p>24 <b>What -- do you know what that means?</b></p> <p>25 A. No.</p> |
| <p style="text-align: right;">Page 83</p> <p>1 MR. STARR: Can we mark this one as Shapiro</p> <p>2 Exhibit 2.</p> <p>3 (Shapiro Exhibit 2 was marked for</p> <p>4 identification.)</p> <p>5 BY MR. STARR:</p> <p>6 <b>Q. Okay. Mr. Shapiro, you've been given a</b></p> <p><b>7 document marked as Shapiro Exhibit 2. Do you</b></p> <p><b>8 recognize this document?</b></p> <p>9 A. (Perusing.)</p> <p>10 <b>Q. I'll -- I'll note that you are involved in</b></p> <p><b>11 the thread earlier in this chain.</b></p> <p>12 A. (Perusing.)</p> <p>13 MR. MORLAN: I don't believe I have a copy</p> <p>14 of Exhibit 2.</p> <p>15 MR. STARR: It is a document with the Bates</p> <p>16 number 777(PL-FL)0000 and then 48 -- excuse me,</p> <p>17 4886. It is an e-mail thread with the subject</p> <p>18 line "Noah working on MPFin?" from June 2024.</p> <p>19 This was introduced at the deposition of Shawn</p> <p>20 Taheri as well, if you have those exhibits handy.</p> <p>21 THE WITNESS: I'm on -- I've seen portions</p> <p>22 of this string, not the whole thing.</p> <p>23 BY MR. STARR:</p> <p>24 <b>Q. And so this -- this -- this is an e-mail</b></p> <p><b>25 chain. And it -- so it starts -- the earliest e-mail</b></p> | <p style="text-align: right;">Page 85</p> <p><b>1 Q. Do you know what M&amp;T is?</b></p> <p>2 A. No.</p> <p>3 <b>Q. Okay. And then in the next e-mail up,</b></p> <p><b>4 Mr. Mendoza -- Mr. Mendoza says that Mr. Davis "left</b></p> <p><b>5 on not so favorable terms." Do you see that?</b></p> <p>6 A. I do (perusing).</p> <p>7 <b>Q. And he says that "Granting access to former</b></p> <p><b>8 employees that left unhappy is risky," right?</b></p> <p>9 A. Yes (perusing).</p> <p>10 <b>Q. Okay. Do you know -- and you mentioned you</b></p> <p><b>11 spoke with JC Mendoza about this case, correct?</b></p> <p>12 A. I did.</p> <p>13 <b>Q. Okay. And he worked for 777 Partners in</b></p> <p><b>14 April 2024 when Davis left, right?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. In fact, Mr. Davis reported to Mr. Mendoza,</b></p> <p><b>17 right?</b></p> <p>18 A. I believe he did.</p> <p>19 <b>Q. Well, he gave him a performance review?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Okay. Do you have any reason to doubt that</b></p> <p><b>22 Mr. Davis left unhappy as Mr. Mendoza says here?</b></p> <p>23 A. That's what JC's saying.</p> <p>24 <b>Q. Do you have any reason to doubt that?</b></p> <p>25 A. No, I don't.</p>                                                                                                                              |

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| <p style="text-align: right;">Page 86</p> <p>1 <b>Q. On the following page, which is 4887,</b><br/> 2 <b>there's an e-mail from Mr. Taheri at the bottom. Do</b><br/> 3 <b>you see that?</b><br/> 4 A. Yes (perusing).<br/> 5 <b>Q. And Mr. Taheri says that he's "weary" of</b><br/> 6 <b>giving Mr. Davis access. Do you see that?</b><br/> 7 A. Yes (perusing).<br/> 8 <b>Q. At the end of that sentence, "I'm still</b><br/> 9 <b>weary of doing this"?</b><br/> 10 A. Yes (perusing).<br/> 11 <b>Q. Okay. So Mr. Taheri was deposed in this</b><br/> 12 <b>case. And I'll represent to you that he testified</b><br/> 13 <b>Mr. Davis was disgruntled when he quit. Do you have</b><br/> 14 <b>any reason to doubt Mr. Taheri's testimony on that</b><br/> 15 <b>point?</b><br/> 16 A. I don't.<br/> 17 <b>Q. Do you know -- do you know whether Mr. Davis</b><br/> 18 <b>was given the access he was requesting in this e-mail</b><br/> 19 <b>chain?</b><br/> 20 A. I don't believe he was.<br/> 21 <b>Q. Okay.</b><br/> 22 MR. STARR: I'd like to mark this as Shapiro<br/> 23 Exhibit 3.<br/> 24 (Shapiro Exhibit 3 was marked for<br/> 25 identification.)</p> | <p style="text-align: right;">Page 88</p> <p>1 counsel from Northwestern Mutual writing to formally<br/> 2 request access for Saiph Consulting to do their<br/> 3 collateral audit. In the middle there is some back<br/> 4 and forth between Shawn Taheri, Jim Howard, myself, JC<br/> 5 Mendoza about how we shouldn't let -- we shouldn't<br/> 6 have him or Paul doing this work. And as I mentioned<br/> 7 before, Jim Howard and I were pretty much the ones who<br/> 8 are telling them that, hey, they're entitled to this<br/> 9 information. We have the controls, there's not too<br/> 10 much damage they can do, let them do the audit.<br/> 11 <b>Q. Yeah.</b><br/> 12 <b>And so on -- on the page ending in 894,</b><br/> 13 <b>there's an e-mail from John Gatmaitan. That's a</b><br/> 14 <b>Northwestern Mutual guy, right?</b><br/> 15 A. Yes (perusing).<br/> 16 <b>Q. Okay. And he says that this request -- in</b><br/> 17 <b>the first paragraph it says, "This request is in</b><br/> 18 <b>connection with the previous notice of inspection we</b><br/> 19 <b>provided to you by e-mail on June 20, 2024."</b><br/> 20 A. Yes (perusing).<br/> 21 <b>Q. Right?</b><br/> 22 <b>And this e-mail here is in July 2024,</b><br/> 23 <b>correct?</b><br/> 24 A. Which e-mail?<br/> 25 <b>Q. The e-mail that Mr. Gatmaitan sent.</b></p> |
| <p style="text-align: right;">Page 87</p> <p>1 MR. MORLAN: What document is that, Peter?<br/> 2 MR. STARR: This is an e-mail from<br/> 3 July 24th, 2024, from Jim Howard to Mark Shapiro.<br/> 4 It's ending in Bates number 4890. This was also<br/> 5 an exhibit at the Taheri declaration -- excuse me,<br/> 6 the Taheri deposition.<br/> 7 BY MR. STARR:<br/> 8 <b>Q. Do you recognize this document, Mr. Shapiro?</b><br/> 9 A. (Perusing.)<br/> 10 MR. MORLAN: Peter, can you send me a copy<br/> 11 of this exhibit, please?<br/> 12 MR. STARR: All right. Can we go off the<br/> 13 record for a second?<br/> 14 THE VIDEOGRAPHER: Going off the record.<br/> 15 The time is 12:31.<br/> 16 (A recess was taken.)<br/> 17 THE VIDEOGRAPHER: We're back on the record.<br/> 18 The time is 12:33.<br/> 19 BY MR. STARR:<br/> 20 <b>Q. Okay. I think the question pending,</b><br/> 21 <b>Mr. Shapiro, is just whether you recognize this</b><br/> 22 <b>document.</b><br/> 23 A. I do.<br/> 24 <b>Q. Okay. Could you identify it for us, please?</b><br/> 25 A. It's an e-mail string. It starts with</p>                                                      | <p style="text-align: right;">Page 89</p> <p>1 A. Yes, July 10th (perusing).<br/> 2 <b>Q. Okay. So would you agree the Northwestern</b><br/> 3 <b>Mutual audit is occurring -- overlapping with the</b><br/> 4 <b>Leadenhall collateral audit?</b><br/> 5 A. Yes, it is.<br/> 6 <b>Q. Okay. At the bottom of the -- the first</b><br/> 7 <b>page of this document, you say that "Jim is the</b><br/> 8 <b>authorized approver." Jim Howard?</b><br/> 9 A. Yes (perusing).<br/> 10 <b>Q. Did you have to authorize Mr. Howard to</b><br/> 11 <b>serve as the approver for these requests?</b><br/> 12 A. No. But Shawn -- in the e-mail prior, Shawn<br/> 13 is saying -- there was an e-mail from Shawn here, "I<br/> 14 continue to struggle with determining who should be<br/> 15 approving requests like this one." So what's in<br/> 16 response to Shawn's e-mail.<br/> 17 <b>Q. Mm-hmm.</b><br/> 18 A. And, again, Jim was running the day-to-day<br/> 19 over Suttonpark. He'd be in a better position than I<br/> 20 would be to approve these requests.<br/> 21 <b>Q. And then when -- when Mr. Howard responds in</b><br/> 22 <b>the top e-mail there, one of the reasons he gives for</b><br/> 23 <b>granting the access is this -- the need to comply with</b><br/> 24 <b>legal requirements, right?</b><br/> 25 A. Yes (perusing).</p>         |

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| <p style="text-align: right;">Page 90</p> <p>1 Q. Okay. So is it the case that Northwestern<br/>2 Mutual had rights to information under whatever<br/>3 contract governs that arrangement?<br/>4 A. Every lending agreement, lenders have<br/>5 certain rights on audits and review and things like<br/>6 that. I assume Northwestern had similar type<br/>7 provisions.<br/>8 Q. Was -- was Mr. Davis granted access to<br/>9 plaintiffs' systems for the Northwestern Mutual audit?<br/>10 A. I don't believe they -- I don't believe he<br/>11 was.<br/>12 Q. So what access is being granted here by<br/>13 Mr. Howard?<br/>14 A. (Perusing.)<br/>15 I mean, from the e-mail string, he's<br/>16 granting Paul Kosinski access.<br/>17 Q. Okay.<br/>18 A. To data within MPFin.<br/>19 Q. And when did you first learn of the<br/>20 intrusions -- the alleged intrusions by Mr. Davis?<br/>21 A. I believe it was August of 2024. Somewhere<br/>22 around -- I think it was August 9th.<br/>23 Q. Who did you learn about that from?<br/>24 A. Oh, I don't know specifically who I heard it<br/>25 from. I'm not sure if it was from Jim Howard or Shawn</p>                                                                         | <p style="text-align: right;">Page 92</p> <p>1 Q. Have you read Mr. Mazur's report in this<br/>2 case?<br/>3 A. I have. I believe there was a supplement<br/>4 too.<br/>5 Q. Yeah.<br/>6 Did Mr. Mazur link Davis's intrusions to<br/>7 Leadenhall?<br/>8 A. I'm not sure if he specifically mentioned<br/>9 Leadenhall. It was mostly timing on -- on his report.<br/>10 Q. So Mr. Mazur is handling the technical<br/>11 investigation. What other investigation was done in<br/>12 response to the intrusions?<br/>13 A. That was the primary investigation was going<br/>14 through Eric to figure -- we had to figure out what<br/>15 happened. And he was the primary source, he and<br/>16 Shawn. I think Brian Keith (phonetic) from our team<br/>17 may have done some work on it as well. But they<br/>18 were -- they were essentially challenged with the task<br/>19 of finding out what happened.<br/>20 Q. But Mr. Mazur didn't link the intrusions to<br/>21 Leadenhall, correct?<br/>22 A. I believe I said I think he mentioned timing<br/>23 but not Leadenhall.<br/>24 Q. So who first raised the possibility that<br/>25 perhaps Leadenhall was behind all this?</p>                                                                                                                                                                               |
| <p style="text-align: right;">Page 91</p> <p>1 directly.<br/>2 Q. And what did they tell you?<br/>3 A. We had a data intrusion. We got an -- an<br/>4 alarm through CrowdStrike. And it appears that the<br/>5 consultants have been -- well, they didn't know what<br/>6 was going on. They basically said we got an alarm, we<br/>7 have to check, and we got to find out what's going on.<br/>8 But there's a potential data -- data intrusion.<br/>9 That's pretty much what it was.<br/>10 Q. And how did you respond to that?<br/>11 A. I don't remember specifically, but we<br/>12 decided that we had to retain a forensic advisor to be<br/>13 able to go through and figure out what went on.<br/>14 Q. And that was Mr. Mazur?<br/>15 A. Yes.<br/>16 Q. Okay. Did you direct Mr. Mazur to<br/>17 investigate the intrusions?<br/>18 A. It was probably more Jim than me. I mean, I<br/>19 was aware Eric was going to be retained, but I wasn't<br/>20 directly involved in -- in the scope or his<br/>21 engagement. I was kept in the loop on everything that<br/>22 was going on.<br/>23 Q. So Mr. Mazur was handling the -- handling the<br/>24 technical forensic cyber investigation; is that right?<br/>25 A. Yes.</p> | <p style="text-align: right;">Page 93</p> <p>1 A. Well, I think it came from -- I don't<br/>2 remember who exactly raised it the first time, but<br/>3 it -- it -- when we started looking at what was --<br/>4 what was -- what was -- what files were looked at and<br/>5 when they were done and who did it, the fact that the<br/>6 MPFin databases were copied, the fact that Steve<br/>7 Pasko's e-mails were copied, the fact that Jen Logee's<br/>8 e-mails and someone was going after Jen Logee's<br/>9 e-mails and OneDrive and the various files.<br/>10 And then ultimately a copy of the<br/>11 September 2022 MPFin file was copied. Those are all<br/>12 directly, coincidentally, whatever you want to call it<br/>13 linked to timeframes and -- and aspects that affect --<br/>14 that could affect the New York litigation.<br/>15 Q. How could they affect the New York<br/>16 litigation?<br/>17 A. I don't know. That's -- ultimately I'm<br/>18 not -- I'm not the -- you know, the gather of<br/>19 evidence. I don't know how it -- it can be -- affect<br/>20 the New York litigation.<br/>21 Q. Well, no. But you testified that these<br/>22 sources of information are relevant to the New York<br/>23 litigation and that's why -- that's what made you<br/>24 think it was Leadenhall. So I'm asking --<br/>25 A. Well, let's go --</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 <b>Q. -- how.</b></p> <p>2 A. Let's go to the September '22 copy of the</p> <p>3 MPFin database. I think it's in the New York</p> <p>4 complaint, it is right around that timeframe,</p> <p>5 September of '22, that Leadenhall gets a tip that</p> <p>6 there's something going on at 777 and they have to</p> <p>7 investigate what's going on. I would think if -- if</p> <p>8 they had a copy of -- and I don't know -- I don't know</p> <p>9 what's in the September '22 MPFin database, but I</p> <p>10 would think if they got a copy of the September</p> <p>11 2022 -- we're not talking September 2023 or 2024.</p> <p>12 We're talking September 2022 database, it's</p> <p>13 specifically called out in the Leadenhall complaint as</p> <p>14 to that's when they found out something was going on.</p> <p>15 All the allegations. Why on earth would --</p> <p>16 would -- would Noah Davis and Paul Kosinski have any</p> <p>17 interest in Steve Pasko -- I mean, they're IT guys.</p> <p>18 Why would they have any interest in Steve Pasko's</p> <p>19 e-mails? Why -- why would they have any -- why would</p> <p>20 they -- why would Noah Davis have any interest in Jen</p> <p>21 Logee's files and e-mails?</p> <p>22 She happens to be working on BIH, which</p> <p>23 happens to be the entity that houses Sutton Capital</p> <p>24 and -- and the proxy that was just -- I mean, there's</p> <p>25 too many connections in the data. I -- I don't know</p> | <p style="text-align: right;">Page 96</p> <p>1 <b>securing loans." Okay?</b></p> <p>2 A. Mm-hmm.</p> <p>3 <b>Q. Does that sound accurate to you?</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. Okay. Receivables and asset -- and other</b></p> <p>6 <b>asset securing loans not just those limited to</b></p> <p>7 <b>Leadenhall, right?</b></p> <p>8 A. Correct.</p> <p>9 <b>Q. And isn't it true that Mr. Davis accessed</b></p> <p>10 <b>the entirety of the MPFin system?</b></p> <p>11 A. My understanding is he took a whole copy of</p> <p>12 it.</p> <p>13 <b>Q. Took a copy -- a whole copy of it?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. So not just the portions of MPFin relevant</b></p> <p>16 <b>to Leadenhall, correct?</b></p> <p>17 A. It's my understanding.</p> <p>18 <b>Q. Okay. What -- can you identify any</b></p> <p>19 <b>information in MPFin, other than collateral in</b></p> <p>20 <b>Leadenhall's portfolio, that would be relevant to</b></p> <p>21 <b>Leadenhall?</b></p> <p>22 A. I'm not an expert on MPFin. I couldn't tell</p> <p>23 you.</p> <p>24 <b>Q. And you testified that Davis made a copy of</b></p> <p>25 <b>the September 2022 version of MPFin in particular?</b></p> |
| <p style="text-align: right;">Page 95</p> <p>1 what can happen, but there's a lot of coincidences in</p> <p>2 the timing of these files.</p> <p>3 <b>Q. So let's -- so let's -- let's break that</b></p> <p>4 <b>down just a bit.</b></p> <p>5 <b>So -- so the MPFin system, you identified</b></p> <p>6 <b>that as a factor, right?</b></p> <p>7 A. (No verbal response given.)</p> <p>8 <b>Q. So the MPFin system houses data about</b></p> <p>9 <b>collateral for many different creditors, right?</b></p> <p>10 A. I'm -- I'm not an expert on the MPFin</p> <p>11 system. I know it's the enterprise system that houses</p> <p>12 the detail on the -- on the various receivable</p> <p>13 portfolios for the companies.</p> <p>14 <b>Q. How many creditors does Suttonpark have?</b></p> <p>15 A. I don't know.</p> <p>16 <b>Q. More than one? At least it's got</b></p> <p>17 <b>Northwestern Mutual and Leadenhall, right?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. How about Credigy?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Anybody else you can think of?</b></p> <p>22 A. No.</p> <p>23 <b>Q. Okay. In the complaint, MPFin system is</b></p> <p>24 <b>described as the "proprietary application used by</b></p> <p>25 <b>Suttonpark to manage receivables and other assets</b></p>                                                                                                                                                                                                                                         | <p style="text-align: right;">Page 97</p> <p>1 A. Among others, yes.</p> <p>2 <b>Q. Which other copies did he make?</b></p> <p>3 A. There are other dates. I'm not sure of</p> <p>4 those dates.</p> <p>5 <b>Q. Okay. Do any of those, in your view, have</b></p> <p>6 <b>special relevance to Leadenhall?</b></p> <p>7 A. I think one was the most current file. I</p> <p>8 don't know.</p> <p>9 <b>Q. Does that have any special relevance to</b></p> <p>10 <b>Leadenhall?</b></p> <p>11 A. It could.</p> <p>12 <b>Q. How?</b></p> <p>13 A. I don't know. It could. I'm -- I -- I</p> <p>14 don't know what's in the data base. Could.</p> <p>15 <b>Q. It could, it could not?</b></p> <p>16 A. Could.</p> <p>17 MR. PELLEGRINO: Objection to form.</p> <p>18 BY MR. STARR:</p> <p>19 <b>Q. Is it equally plausible that it does not? I</b></p> <p>20 <b>mean, you -- you don't know, right?</b></p> <p>21 A. I don't know.</p> <p>22 <b>Q. Okay. That's all I'm trying to get at.</b></p> <p>23 <b>You mentioned Mr. Pasko, his e-mails were</b></p> <p>24 <b>targeted?</b></p> <p>25 A. That's my understanding, yes.</p>                                                                               |

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| <p style="text-align: right;">Page 98</p> <p>1 Q. Okay. Mr. Pasko was the former managing<br/>2 partner. He had oversight responsibilities for all of<br/>3 the portfolio companies, right?<br/>4 A. Correct.<br/>5 Q. And you said 777 Partners had dozens of<br/>6 portfolio companies?<br/>7 A. Yes.<br/>8 Q. And I assume those portfolio companies have<br/>9 loans and business dealings with entities other than<br/>10 Leadenhall, right?<br/>11 A. Yes.<br/>12 Q. Okay. You testified earlier that 777<br/>13 Partners has been sued in other lawsuits not involving<br/>14 Leadenhall, right?<br/>15 A. Yes.<br/>16 Q. And that it's under investigation by the<br/>17 DOJ?<br/>18 A. Yes.<br/>19 Q. Okay. So the plaintiffs allege that Davis<br/>20 targeted Pasko's entire mailbox, right?<br/>21 A. Yes.<br/>22 Q. Meaning it contains all of his e-mails?<br/>23 A. It's my understanding.<br/>24 Q. Okay. Can you identify any specific e-mails<br/>25 that Davis targeted in particular?</p>                                                                                                 | <p style="text-align: right;">Page 100</p> <p>1 Q. Saiph.<br/>2 Are you aware of anyone at Saiph, other than<br/>3 Mr. Davis, who made any intrusions?<br/>4 A. I believe Mr. Davis made the intrusions. He<br/>5 was working for Saiph.<br/>6 Q. Do you know which credentials he used to<br/>7 make the intrusions?<br/>8 A. I can't recall. It's in the report.<br/>9 Q. Do you know that for 9 out of 10 intrusions<br/>10 he used his own former 777 Partners credentials?<br/>11 A. Yes. And I also understand he had some<br/>12 backdoor access.<br/>13 Q. What kind of backdoor access?<br/>14 A. Supposedly there's scripts and -- and<br/>15 programs that he knew about that could circumvent the<br/>16 standard credentials of the 777 systems. He -- he ran<br/>17 IT.<br/>18 Q. Right.<br/>19 So you're -- he had inside knowledge of 777<br/>20 Partners' systems?<br/>21 A. Correct.<br/>22 Q. Or Suttonpark systems?<br/>23 A. (No verbal response given.)<br/>24 Q. Are you assuming -- are you assuming that<br/>25 Saiph -- that others at Saiph knew that Davis was</p> |
| <p style="text-align: right;">Page 99</p> <p>1 A. I can't.<br/>2 Q. Okay. Would -- would you agree that not all<br/>3 of the e-mails in Pasko's mailbox relate to<br/>4 Leadenhall?<br/>5 A. Some were, some were not.<br/>6 Q. Right.<br/>7 And you don't know any anything about<br/>8 Mr. Pasko's relationship with Mr. Davis?<br/>9 A. I don't.<br/>10 Q. Okay. You don't know whether Mr. Davis had<br/>11 bad blood with Mr. Pasko?<br/>12 A. I don't.<br/>13 Q. Okay. So why -- why is the targeting of<br/>14 Pasko's mailbox linked to Leadenhall?<br/>15 A. It's a combination of everything. It's --<br/>16 it's Leadenhall's consultants are going in there<br/>17 and -- and going -- going in specifically and<br/>18 targeting data that everybody at the company was<br/>19 fearful of. Everybody, except for -- Jim Howard and I<br/>20 overruled it. And it turns out that they went after<br/>21 data that wasn't part of the collateral audit, which<br/>22 they were engage for -- engaged for.<br/>23 Q. And when you say "they," who are you<br/>24 referring to?<br/>25 A. Saiph.</p> | <p style="text-align: right;">Page 101</p> <p>1 accessing information without authorization?<br/>2 A. It's a distinct possibility.<br/>3 Q. Okay. Where did you get that assumption<br/>4 from?<br/>5 A. It's an assumption that is part -- is<br/>6 essentially part of the litigation, that -- that<br/>7 Leadenhall engaged Saiph, who engaged Davis, and it<br/>8 was all geared towards going after information that<br/>9 they otherwise weren't entitled to.<br/>10 Q. That's in the complaint, right?<br/>11 A. Yes.<br/>12 Q. But the complaint didn't write itself. Who<br/>13 raised that possibility first?<br/>14 A. I don't remember who raised it.<br/>15 Q. Okay. Was it you?<br/>16 A. I don't remember who raised it.<br/>17 Q. Was it you though?<br/>18 A. I don't remember if I raised it first or<br/>19 last. I don't.<br/>20 Q. Okay. Can you identify any information --<br/>21 so --<br/>22 MR. STARR: Withdrawn.<br/>23 BY MR. STARR:<br/>24 Q. You also cited the access or targeting of<br/>25 Ms. Logee's laptop as a -- as a factor in your view,</p>           |

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| <p style="text-align: right;">Page 102</p> <p>1 right?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Can you identify any specific files</p> <p>4 on Ms. Logee's laptop that were targeted?</p> <p>5 A. I can't right now, no.</p> <p>6 Q. Okay. Any specific information at all that</p> <p>7 was targeted?</p> <p>8 A. I can't right now.</p> <p>9 Q. So you don't know what on Ms. Logee's laptop</p> <p>10 was accessed and yet you think that's a factor that</p> <p>11 points at Leadenhall?</p> <p>12 A. Could be.</p> <p>13 Q. Okay. It could be and it --</p> <p>14 A. It's a factor.</p> <p>15 Q. Is it more likely than not in your view?</p> <p>16 A. I don't know how to measure it. It's a --</p> <p>17 it's a factor. Everything's a factor.</p> <p>18 Q. Why is it a factor that points to Leadenhall</p> <p>19 if you don't know what was on her laptop?</p> <p>20 MR. PELLEGRINO: Objection to form.</p> <p>21 THE WITNESS: Jen Logee was directly</p> <p>22 involved with Brickell Holdings, the owner of</p> <p>23 Suttonpark, and was named in -- I don't remember</p> <p>24 which -- which pleading, but she's -- she was</p> <p>25 definitely well aware of and integrated into</p> | <p style="text-align: right;">Page 104</p> <p>1 the New York action, right?</p> <p>2 A. Correct.</p> <p>3 Q. Plaintiffs' contention in this case is that</p> <p>4 Leadenhall put Noah Davis up to this so that it could</p> <p>5 get information it could use in New York, information</p> <p>6 that would be useful in a fraud case is evidence of</p> <p>7 fraud. So do you believe there is evidence of fraud</p> <p>8 in the systems that Mr. Davis targeted?</p> <p>9 MR. PELLEGRINO: Objection to form.</p> <p>10 THE WITNESS: I don't think I'd be in a</p> <p>11 position to know or -- either know or not know</p> <p>12 whether there was evidence of fraud in the</p> <p>13 systems. Sounds like it's an IT issue.</p> <p>14 BY MR. STARR:</p> <p>15 Q. Well, what systems were accessed?</p> <p>16 A. Steve Pasko's e-mail.</p> <p>17 Q. Mm-hmm.</p> <p>18 A. Jen Logee's OneDrive.</p> <p>19 Q. Okay. Let's stop there.</p> <p>20 Is there evidence of fraud in Steve Pasko's</p> <p>21 e-mail to your knowledge?</p> <p>22 A. I don't know.</p> <p>23 Q. Okay. Is there evidence of fraud in</p> <p>24 Ms. Logee's -- whatever portion of her laptop that he</p> <p>25 accessed?</p> |
| <p style="text-align: right;">Page 103</p> <p>1 Brickell Holdings and Suttonpark. She could have</p> <p>2 information that Leadenhall was -- was looking</p> <p>3 for.</p> <p>4 BY MR. STARR:</p> <p>5 Q. So Leadenhall alleges fraud in the New York</p> <p>6 case, right?</p> <p>7 A. Yes.</p> <p>8 Q. Is -- are you aware of any evidence of fraud</p> <p>9 on any of the systems that Mr. Davis allegedly</p> <p>10 targeted?</p> <p>11 A. Can you say that again?</p> <p>12 Q. Do you believe there's evidence of fraud in</p> <p>13 the systems and information that were targeted by</p> <p>14 Mr. Davis?</p> <p>15 MR. PELLEGRINO: Objection to form.</p> <p>16 THE WITNESS: I wouldn't --</p> <p>17 BY MR. STARR:</p> <p>18 Q. You can answer.</p> <p>19 A. I wouldn't know. I haven't -- I wouldn't</p> <p>20 know if there's any fraud in the systems.</p> <p>21 Q. Evidence of fraud in the systems that</p> <p>22 Mr. Davis targeted?</p> <p>23 A. I'm not sure I understand the question there</p> <p>24 maybe.</p> <p>25 Q. Okay. So Leadenhall is alleging fraud in</p>                                                                                                             | <p style="text-align: right;">Page 105</p> <p>1 A. I don't know.</p> <p>2 Q. Okay. The MPFin system was accessed, right?</p> <p>3 A. Correct.</p> <p>4 Q. Is there evidence of fraud in the MPFin</p> <p>5 system?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. You're an independent executive with</p> <p>8 fiduciary obligations, right?</p> <p>9 A. Yes.</p> <p>10 Q. Would you feel compelled to disclose</p> <p>11 evidence of fraud if you were aware of it?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Can you identify any information that</p> <p>14 Davis obtained that Leadenhall subsequently used in</p> <p>15 the New York case?</p> <p>16 A. No, I can't.</p> <p>17 Q. Okay. And you mentioned Pasko and -- and</p> <p>18 Logee. Have you discussed with Mr. Pasko what was in</p> <p>19 his e-mails?</p> <p>20 A. No, I have not.</p> <p>21 Q. Have you discussed with Mr. Pasko whether he</p> <p>22 thought Leadenhall directed Mr. Davis's conduct?</p> <p>23 A. Yes.</p> <p>24 Q. What did he say?</p> <p>25 A. He believes they did.</p>                                                                                                                                            |

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| <p style="text-align: right;">Page 106</p> <p>1 <b>Q. Why?</b></p> <p>2 A. Because he thought they were looking for</p> <p>3 information that -- that doesn't even exist but they</p> <p>4 think we committed fraud here.</p> <p>5 <b>Q. So did he have any factual basis? Did he</b></p> <p>6 <b>identify any factual basis to conclude that Leadenhall</b></p> <p>7 <b>directed these intrusions?</b></p> <p>8 A. Just coincidence.</p> <p>9 <b>Q. Coincidence. Okay.</b></p> <p>10 <b>Did you speak with Ms. Logee?</b></p> <p>11 A. I did not.</p> <p>12 <b>Q. No, you haven't spoken with her?</b></p> <p>13 A. I have not.</p> <p>14 <b>Q. When -- have you ever spoken with her?</b></p> <p>15 A. No.</p> <p>16 <b>Q. Okay. Have you reviewed any information</b></p> <p>17 <b>that was on Ms. Logee's laptop?</b></p> <p>18 A. No.</p> <p>19 <b>Q. So was it Mr. Pasko's idea to name</b></p> <p>20 <b>Leadenhall as a defendant in this case?</b></p> <p>21 A. No.</p> <p>22 <b>Q. Whose idea was it?</b></p> <p>23 A. Again, I don't know whose idea. It was a</p> <p>24 live discussion amongst another people -- a lot of</p> <p>25 people. I don't know who first came up with the idea.</p>                                                           | <p style="text-align: right;">Page 108</p> <p>1 MR. STARR: No, no, no. I'm not asking</p> <p>2 about communications with counsel.</p> <p>3 BY MR. STARR:</p> <p>4 <b>Q. You said you directed Smith Gambrell to</b></p> <p>5 <b>draft a complaint, and I'm asking you: Based on what?</b></p> <p>6 A. It would have been based on discussions with</p> <p>7 Smith Gambrell. I don't know how you separate the</p> <p>8 two.</p> <p>9 <b>Q. Well, Smith --</b></p> <p>10 A. We made -- didn't make the discussion -- we</p> <p>11 didn't make the decision in a vacuum.</p> <p>12 <b>Q. Well, Smith Gambrell didn't direct itself to</b></p> <p>13 <b>draft a complaint, right? You did?</b></p> <p>14 A. No, but it was based on conversations that</p> <p>15 we had prior to making -- at some point you make a</p> <p>16 decision, but it's based on feedback and information</p> <p>17 that absolutely the attorneys had input into, whether</p> <p>18 there was a legal basis or anything like that. We're</p> <p>19 not going to make a decision to file a complaint</p> <p>20 without understanding or hearing from them the issues</p> <p>21 involved in it.</p> <p>22 <b>Q. So you understand what I'm trying to ask?</b></p> <p>23 A. Of course I do.</p> <p>24 <b>Q. Which is that: Who at the client decided to</b></p> <p>25 <b>file this complaint?</b></p> |
| <p style="text-align: right;">Page 107</p> <p>1 <b>Q. Okay. Was Mr. Wander involved in that</b></p> <p>2 <b>discussion?</b></p> <p>3 A. I don't remember. I don't recall if he was</p> <p>4 or not.</p> <p>5 <b>Q. Was Mr. Pasko involved in that discussion?</b></p> <p>6 A. He was involved in some discussions.</p> <p>7 <b>Q. Which discussions?</b></p> <p>8 A. Preliminary discussions. Not the discussion</p> <p>9 whether or not to file suit against Leadenhall.</p> <p>10 <b>Q. Who directed Smith Gambrell to draft a</b></p> <p>11 <b>complaint?</b></p> <p>12 A. That would have been Ian Ratner and myself.</p> <p>13 <b>Q. Okay. And when was that decision made?</b></p> <p>14 A. I don't know the exact date.</p> <p>15 <b>Q. Okay. What made you decide that filing a</b></p> <p>16 <b>complaint against Leadenhall in federal court was</b></p> <p>17 <b>warranted here?</b></p> <p>18 MR. PELLEGRINO: I'm going to object based</p> <p>19 on work product.</p> <p>20 BY MR. STARR:</p> <p>21 <b>Q. Okay. You can answer.</b></p> <p>22 MR. PELLEGRINO: I'm just going to direct</p> <p>23 you not to -- not to reveal the sum and substance</p> <p>24 of conversations with counsel regarding the</p> <p>25 decision to file the complaint.</p> | <p style="text-align: right;">Page 109</p> <p>1 A. I said it. It -- it was Ian and myself, but</p> <p>2 it was done in collaboration with attorneys and input</p> <p>3 from -- and feedback from attorneys.</p> <p>4 <b>Q. Okay. In your view --</b></p> <p>5 A. You can't -- you can't separate the two.</p> <p>6 <b>Q. Sorry, sir. Go ahead.</b></p> <p>7 A. I'm just saying, you can't separate the two.</p> <p>8 <b>Q. Okay.</b></p> <p>9 A. Or I can't.</p> <p>10 <b>Q. In your view, what facts warranted filing a</b></p> <p>11 <b>complaint against Leadenhall?</b></p> <p>12 A. It's the factors that we put in the</p> <p>13 complaint. I mean, do you have the complaint? I can</p> <p>14 just read off all the factors that were listed in</p> <p>15 that. I mean, I --</p> <p>16 <b>Q. I just want to hear from you.</b></p> <p>17 A. I -- I mentioned three of them. There's</p> <p>18 probably 9 or 10 of them in the complaint.</p> <p>19 <b>Q. Okay. And Smith Gambrell drafted the</b></p> <p>20 <b>complaint?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. Did you review a draft of the complaint?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. Who else reviewed a draft of the complaint?</b></p> <p>25 A. I don't know. I don't know specifically,</p>                                                                                                          |

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| <p style="text-align: right;">Page 110</p> <p>1 but it was -- it would have been Ian Ratner, myself,<br/>2 Jon Walder, Chris O'Reilly. I'm not sure if Mollie<br/>3 Wander would have been in the review of the complaint.<br/>4 Definitely would have been us four.<br/>5 <b>Q. And who --</b><br/>6 A. I'm not sure -- I'm not sure if there was<br/>7 something else on there.<br/>8 <b>Q. Who verified whether the allegations in the</b><br/>9 <b>complaint were accurate?</b><br/>10 A. Eric Mazur and Shawn went through and -- to<br/>11 make sure that the facts were accurate. So, yes, I<br/>12 believe -- I don't know if they -- they saw the --<br/>13 they must have seen the complaint because they<br/>14 definitely had input into or making sure that the<br/>15 facts were accurate.<br/>16 <b>Q. Okay. So in the lead up to filing the</b><br/>17 <b>complaint, which would -- was in September, I believe.</b><br/>18 <b>Is that -- do you recall?</b><br/>19 A. I believe so.<br/>20 <b>Q. September 2024.</b><br/>21 <b>So and the -- you learned of the intrusions</b><br/>22 <b>in August, right?</b><br/>23 A. Yes.<br/>24 <b>Q. Okay. So in that period, there were --</b><br/>25 <b>there were discussions among a group of people you</b></p> | <p style="text-align: right;">Page 112</p> <p>1 A. Pretty sure.<br/>2 <b>Q. Okay. Who, to your knowledge, reviewed a</b><br/>3 <b>copy of this complaint before it was filed?</b><br/>4 A. I think I just answered that. It would have<br/>5 been myself and Ian Ratner, Chris O'Reilly, Jon<br/>6 Walder, and I'm not sure if Mollie Wander would have<br/>7 been there. I believe Eric Mazur, probably Shawn<br/>8 O'Taheri -- Shawn Taheri. Maybe Jim Howard. Those<br/>9 would be the folks.<br/>10 <b>Q. In the course of your investigation --</b><br/>11 <b>like --</b><br/>12 MR. STARR: Withdraw that.<br/>13 BY MR. STARR:<br/>14 <b>Q. Did Mollie Wander resign from her position</b><br/>15 <b>when B. Riley was retained?</b><br/>16 MR. PELLEGRINO: Objection to form.<br/>17 THE WITNESS: Yeah. She was a manager of, I<br/>18 think, 600, and she resigned as a manager.<br/>19 BY MR. STARR:<br/>20 <b>Q. But she remained involved?</b><br/>21 A. She's still an employee.<br/>22 <b>Q. In what capacity?</b><br/>23 A. She's an attorney. She handles a lot of the<br/>24 employee claims.<br/>25 <b>Q. Okay. In the course of your investigation</b></p>                                                                   |
| <p style="text-align: right;">Page 111</p> <p>1 said?<br/>2 A. Yes.<br/>3 <b>Q. Was anyone -- any lawyer from Cadwalader</b><br/>4 <b>involved in any of those discussions?</b><br/>5 MR. PELLEGRINO: I'm going object based on<br/>6 work product and potentially common interest.<br/>7 BY MR. STARR:<br/>8 <b>Q. Okay. You can answer.</b><br/>9 A. I don't recall being on any -- in any<br/>10 conversations with Cadwalader on it.<br/>11 <b>Q. Was anyone from A-CAP involved in those</b><br/>12 <b>discussions?</b><br/>13 A. Again, I don't recall anybody from A-CAP<br/>14 being involved in discussions where I was present.<br/>15 <b>Q. You don't recall or they were not involved?</b><br/>16 A. I don't believe they were.<br/>17 <b>Q. Okay.</b><br/>18 A. I don't.<br/>19 <b>Q. Have you discussed this lawsuit with Kenneth</b><br/>20 <b>King?</b><br/>21 A. I don't believe I have.<br/>22 <b>Q. Have you discussed this lawsuit with anyone</b><br/>23 <b>from A-CAP at all?</b><br/>24 A. I don't believe I have.<br/>25 <b>Q. Okay. Are you certain about that?</b></p>                                                                                                                                                                            | <p style="text-align: right;">Page 113</p> <p>1 of the claims underlying this complaint, did you ever<br/>2 look into or consider whether Northwestern Mutual Life<br/>3 could have been behind the intrusions?<br/>4 A. No.<br/>5 <b>Q. Did you ever look into or consider whether</b><br/>6 <b>Mr. Davis acted alone?</b><br/>7 A. I mean, it was considered. We were -- the<br/>8 question is why would he -- why would he act alone in<br/>9 that regard? We don't know. Ultimately the evidence<br/>10 is going to be there or it won't be. But was it<br/>11 considered, yes.<br/>12 <b>Q. So what factors led you to rule that</b><br/>13 <b>possibility out?</b><br/>14 A. It's too circumstantial. There's too much<br/>15 circumstantial evidence that points to exact<br/>16 information that's relevant to the Leadenhall New York<br/>17 case.<br/>18 <b>Q. The exact information? What exact</b><br/>19 <b>information is relevant to the Leadenhall New York</b><br/>20 <b>case?</b><br/>21 A. Again, the timing we talked about. I --<br/>22 I...<br/>23 <b>Q. Well, you just said you couldn't identify</b><br/>24 <b>any specific information. So if that's a factor, I</b><br/>25 <b>want to know what information.</b></p> |

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| <p style="text-align: right;">Page 114</p> <p>1 MR. PELLEGRINO: Objection to form.<br/>2 THE WITNESS: I believe I said it was the<br/>3 timing and -- and the information. I don't know<br/>4 whether the information exists in those files. It<br/>5 could exist. It may not exist. And I think we<br/>6 already said that.<br/>7 BY MR. STARR:<br/>8 <b>Q. Okay. So it's the timing and the existence</b><br/>9 <b>of information that you're not sure whether it exists,</b><br/>10 <b>that's -- that's what led to Leadenhall's named --</b><br/>11 <b>naming as a defendant?</b><br/>12 A. Yes.<br/>13 <b>Q. The Northwestern Mutual audit had the same</b><br/>14 <b>timing as the Leadenhall audit, right?</b><br/>15 A. It had overlapped, yes.<br/>16 <b>Q. Okay. But you didn't consider whether --</b><br/>17 <b>you didn't investigate whether Northwestern Mutual was</b><br/>18 <b>behind this?</b><br/>19 A. No.<br/>20 <b>Q. Why not?</b><br/>21 A. There's no litigation going on with<br/>22 Northwestern Mutual. There's no complaints going on<br/>23 with Northwestern Mutual.<br/>24 <b>Q. What is the status of the Northwestern</b><br/>25 <b>Mutual relationship now?</b></p> | <p style="text-align: right;">Page 116</p> <p>1 THE VIDEOGRAPHER: Okay. We're back on the<br/>2 record. The time is 2:03.<br/>3 BY MR. STARR:<br/>4 <b>Q. Okay. Welcome back, Mr. Shapiro.</b><br/>5 A. Thank you.<br/>6 <b>Q. Okay. Did you have an opportunity to confer</b><br/>7 <b>with your counsel during the break?</b><br/>8 A. Not about the case. Just we chatted and had<br/>9 a nice lunch.<br/>10 <b>Q. All right. So before the break we were</b><br/>11 <b>discussing some of the factors that led you to</b><br/>12 <b>conclude that Leadenhall was behind the alleged</b><br/>13 <b>intrusions, right?</b><br/>14 A. Yes.<br/>15 <b>Q. And I believe you testified that Davis</b><br/>16 <b>obtained a copy of the MPFin system as of September</b><br/>17 <b>2022?</b><br/>18 A. Yes.<br/>19 <b>Q. And that was important to your decision to</b><br/>20 <b>name Leadenhall as a defendant?</b><br/>21 A. No. That was found -- that was later on<br/>22 that that was found actually. It was -- it was -- we<br/>23 knew about the earlier or the more recent databases<br/>24 early on. We found out about the September '22 which<br/>25 essentially just confirmed what we were thinking or</p>                                                                                                                                                       |
| <p style="text-align: right;">Page 115</p> <p>1 A. They're transition -- I believe they're<br/>2 transitioning off of 777 like everybody else.<br/>3 That's -- that's in process.<br/>4 <b>Q. And so Leadenhall was named as a defendant</b><br/>5 <b>because it's involved in litigation with 777?</b><br/>6 A. Leadenhall was named as a defendant because<br/>7 we believe that they were behind the data intrusion.<br/>8 <b>Q. Mm-hmm.</b><br/>9 <b>To your knowledge, did Mr. Davis</b><br/>10 <b>successfully transfer any data outside of the 777</b><br/>11 <b>network?</b><br/>12 A. I thought -- I thought he was able to<br/>13 transfer data to hard drives, but I'm not sure of<br/>14 that. It's -- again, it's in the report.<br/>15 <b>Q. Do you have any factual basis to conclude</b><br/>16 <b>that Leadenhall has benefitted from Mr. Davis's</b><br/>17 <b>intrusions?</b><br/>18 A. Not as of now, no.<br/>19 <b>Q. Okay.</b><br/>20 MR. STARR: Do you want to take a break? We<br/>21 can --<br/>22 Off the record.<br/>23 THE VIDEOGRAPHER: Okay. Going off the<br/>24 record. The time is 1:12.<br/>25 (A lunch recess was taken.)</p>                                       | <p style="text-align: right;">Page 117</p> <p>1 could confirm what we were thinking earlier on. But<br/>2 we didn't have the '22 until there was some exchange<br/>3 of documents, actually recently.<br/>4 <b>Q. Okay. So you're saying that you learned</b><br/>5 <b>about a September 2022 copy of MPFin not at the time</b><br/>6 <b>of the filing of the lawsuit but more recently?</b><br/>7 A. Correct.<br/>8 <b>Q. And how did -- and what was the exchange of</b><br/>9 <b>documents you learned that through?</b><br/>10 A. It came through Shawn Taheri. I spoke with<br/>11 Eric Mazur. It -- it was in some -- some of the<br/>12 documents that happened I -- I think in exchange in<br/>13 some of the discovery that it came up. Eric -- I --<br/>14 it was a discussion with Eric Mazur where I found it<br/>15 out.<br/>16 <b>Q. And was it in Eric Mazur's supplemental</b><br/>17 <b>report?</b><br/>18 A. No, I don't it -- no, I don't think it was.<br/>19 I think it was after his supplemental report.<br/>20 <b>Q. Well, so are you aware that Saiph provided</b><br/>21 <b>information in this case, exchanged information in</b><br/>22 <b>discovery indicating that certain copies of MPFin were</b><br/>23 <b>found on a Saiph device issued to Mr. Davis?</b><br/>24 A. If -- if that's what we're talking -- I -- I<br/>25 understand --</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 <b>Q. That's what you're referring to?</b></p> <p>2 A. -- the transfer of documents. There --</p> <p>3 there were shared documents that came from either</p> <p>4 Leadenhall or Saiph. I don't know where they came</p> <p>5 from. And that's where that was found.</p> <p>6 <b>Q. And as for the -- you said you had</b></p> <p>7 <b>knowledge -- prior knowledge of other copies of the</b></p> <p>8 <b>MPFin database?</b></p> <p>9 A. Correct. When we initiated the lawsuit,</p> <p>10 there were other copies of the MPFin database. I</p> <p>11 don't know what dates they were, but they were more</p> <p>12 recently than September of '22. But, again, it was</p> <p>13 the same -- it was the same issue. What -- what --</p> <p>14 you know, why is Noah Davis making copies of MPFin.</p> <p>15 <b>Q. As to these earlier -- sorry.</b></p> <p>16 <b>As to the more recently dated copies but the</b></p> <p>17 <b>ones you knew about earlier, were those covered in</b></p> <p>18 <b>Mr. Mazur's report?</b></p> <p>19 A. I believe they were.</p> <p>20 <b>Q. Okay.</b></p> <p>21 MR. STARR: Let's mark Mr. Mazur's report.</p> <p>22 This will be Shapiro Exhibit 4.</p> <p>23 (Shapiro Exhibit 4 was marked for</p> <p>24 identification.)</p> <p>25 BY MR. STARR:</p> | <p style="text-align: right;">Page 120</p> <p>1 MR. STARR: So the original and the</p> <p>2 supplemental.</p> <p>3 BY MR. STARR:</p> <p>4 <b>Q. So, Mr. Shapiro, can you identify where in</b></p> <p>5 <b>Mr. Mazur's initial report any copy of the MPFin</b></p> <p>6 <b>system as of any date is mentioned?</b></p> <p>7 A. (Perusing.)</p> <p>8 <b>Q. And I will tell you that to my</b></p> <p>9 <b>understanding, the initial report just details what --</b></p> <p>10 <b>ten of what he refers to as intrusion events.</b></p> <p>11 A. I -- I'm seeing that now (perusing).</p> <p>12 <b>Q. And if you would, please turn toward --</b></p> <p>13 MR. STARR: Well, withdraw that question</p> <p>14 actually.</p> <p>15 BY MR. STARR:</p> <p>16 <b>Q. Does this refresh your recollection that</b></p> <p>17 <b>plaintiffs not know about any MPFin copies at the time</b></p> <p>18 <b>of this report?</b></p> <p>19 A. No, it doesn't. I mean, it's not in the</p> <p>20 report, but I can't say -- I won't say for sure that</p> <p>21 we didn't know about it when -- when we -- back in</p> <p>22 September.</p> <p>23 <b>Q. Well, let's go to the end of this report,</b></p> <p>24 <b>kind of the last 15 pages.</b></p> <p>25 A. (Complying.)</p>                                                                                      |
| <p style="text-align: right;">Page 119</p> <p>1 <b>Q. Okay. Mr. Shapiro, Exhibit 4 is a copy of</b></p> <p>2 <b>Mr. Mazur's -- well, there's a Mr. Mazur initial</b></p> <p>3 <b>report and then toward the end, his supplemental</b></p> <p>4 <b>report.</b></p> <p>5 <b>Just to identify for the record, the initial</b></p> <p>6 <b>report is dated September 27, 2024, and the</b></p> <p>7 <b>supplemental is dated January 2nd, 2025.</b></p> <p>8 <b>So --</b></p> <p>9 MR. STARR: What, Mr. Pellegrino?</p> <p>10 MR. PELLEGRINO: Yes. Are these all three</p> <p>11 reports or just two?</p> <p>12 MR. STARR: What is the -- what are the</p> <p>13 three reports?</p> <p>14 MR. PELLEGRINO: There's the original, the</p> <p>15 supplemental, and then a February 12th.</p> <p>16 MR. STARR: February 12th report relating</p> <p>17 to?</p> <p>18 MR. PELLEGRINO: It's a -- the February 12th</p> <p>19 Mazur report.</p> <p>20 MR. STARR: Max Davis?</p> <p>21 MR. MORLAN: Yes.</p> <p>22 MR. PELLEGRINO: Some of the context. Yeah,</p> <p>23 sure.</p> <p>24 MR. STARR: So this is the first two.</p> <p>25 MR. PELLEGRINO: Okay. Thank you.</p>                                                                                                                                                                           | <p style="text-align: right;">Page 121</p> <p>1 <b>Q. It's really the end of this document. It's</b></p> <p>2 <b>the second -- the start of the second -- the</b></p> <p>3 <b>supplemental report dated January 2nd, 2025.</b></p> <p>4 A. Okay (complying).</p> <p>5 <b>Q. Are you there?</b></p> <p>6 A. I am (perusing).</p> <p>7 MR. PELLEGRINO: What -- I'm...</p> <p>8 BY MR. STARR:</p> <p>9 <b>Q. Okay. On Page Number 4, there's a section</b></p> <p>10 <b>titled "Recovered Breached Data." Are you with me?</b></p> <p>11 A. I am (perusing).</p> <p>12 <b>Q. Okay. In there, Mr. Mazur explains that (as</b></p> <p>13 <b>read) "Pursuant to court order, Saiph Consulting</b></p> <p>14 <b>conducted an internal investigation to identify</b></p> <p>15 <b>potential 777 data," right?</b></p> <p>16 A. (Perusing.)</p> <p>17 <b>Q. And here he says he (as read) "received a</b></p> <p>18 <b>copy of the files that were returned by Saiph</b></p> <p>19 <b>Consulting." And that "within that production of 24</b></p> <p>20 <b>files, there appears to be copies/archives of the</b></p> <p>21 <b>MPFin Database which contains highly sensitive</b></p> <p>22 <b>financial information."</b></p> <p>23 <b>Do you see that?</b></p> <p>24 A. Yep, I do (perusing).</p> <p>25 <b>Q. And he further says that his understanding</b></p> |

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| <p style="text-align: right;">Page 122</p> <p>1 is that "these files were recovered from a Saiph<br/>2 Consulting device issued to Noah Davis."<br/>3 Do you see that?<br/>4 A. Yes (perusing).<br/>5 Q. The final paragraph -- excuse me.<br/>6 The final sentence of that paragraph says<br/>7 that "Attached to this report as Exhibit C is a<br/>8 complete listing of all files identified by Saiph<br/>9 Consulting."<br/>10 So now I direct you to Exhibit C.<br/>11 A. (Complying.)<br/>12 Q. Are you there?<br/>13 A. Yes.<br/>14 Q. Okay. So the top row there, do you see the<br/>15 top row file name says "202405-MPFin"?<br/>16 A. Right. Created -- Modified June 3rd.<br/>17 Created 8/22. Access date 8/22.<br/>18 Q. 8/22/2024?<br/>19 A. Right.<br/>20 Q. Yep.<br/>21 And the file name appears to be<br/>22 202405-MPFin, meaning May 2024, correct?<br/>23 A. Right (perusing).<br/>24 Q. The next row down is the same thing, right?<br/>25 A. (Perusing.)</p>                                                                     | <p style="text-align: right;">Page 124</p> <p>1 Q. Where was it found?<br/>2 A. I don't -- I don't know where it was found.<br/>3 Q. Do you know when was it -- when it was<br/>4 found?<br/>5 A. Not specific date, no.<br/>6 MR. PELLEGRINO: Objection to form.<br/>7 MR. STARR: What is the objection to "do you<br/>8 know when it was found?"<br/>9 MR. PELLEGRINO: I don't think there is an<br/>10 understanding as to what you are asking him.<br/>11 MR. STARR: Okay.<br/>12 BY MR. STARR:<br/>13 Q. To clarify, when I ask "when it was found,"<br/>14 the "it" refers to a copy of the MPFin database as of<br/>15 September 2022.<br/>16 Do you understand the question?<br/>17 A. Yes. I don't know when that was identified.<br/>18 Q. Okay.<br/>19 A. We -- we got -- we -- the September '22<br/>20 database copy, which was -- which we just discovered<br/>21 recently, no, I don't -- I don't know when it was --<br/>22 when it was created.<br/>23 Q. Who is "we"?<br/>24 A. Me. I don't know when -- I don't know when<br/>25 it was created.</p>                     |
| <p style="text-align: right;">Page 123</p> <p>1 Yes.<br/>2 Q. There is no copy of the MPFin database as of<br/>3 September 20 -- 2022 among this list of files, is<br/>4 there?<br/>5 MR. PELLEGRINO: Objection to form.<br/>6 THE WITNESS: I don't see it on this sheet.<br/>7 BY MR. STARR:<br/>8 Q. Does that refresh your recollection as to<br/>9 whether there was ever a copy of the September 2022 --<br/>10 A. No.<br/>11 MR. PELLEGRINO: Objection to form.<br/>12 BY MR. STARR:<br/>13 Q. -- MPFin system?<br/>14 A. No, it doesn't.<br/>15 Q. So you --<br/>16 A. It's not -- it's not on this list.<br/>17 Q. Do you maintain that there is a copy of the<br/>18 MPFin system as of September 2022?<br/>19 MR. PELLEGRINO: Objection to form.<br/>20 THE WITNESS: My recollection is there was.<br/>21 If I'm wrong or if I'm misunderstanding what I've<br/>22 seen, then, you know, maybe -- maybe Shawn and<br/>23 Eric have better information than I do. But<br/>24 that's my recollection that it was there.<br/>25 BY MR. STARR:</p> | <p style="text-align: right;">Page 125</p> <p>1 Q. Oh, I'm sorry. You said that "we just<br/>2 discovered it recently"?<br/>3 A. "We" meaning the company and B. Riley.<br/>4 Remember you said that --<br/>5 Q. Yes.<br/>6 A. -- there was information that was passed<br/>7 over and that's where we found it.<br/>8 Q. Well --<br/>9 A. Because it was produced by Saiph.<br/>10 Q. My impression was that you were referring to<br/>11 this information that's covered in the supplemental<br/>12 report.<br/>13 But, I guess, can you give me all the<br/>14 information that you have about a September 2022 copy<br/>15 of the MPFin database?<br/>16 A. I don't have the information. Eric Mazur<br/>17 has the information. He's a better person to talk to<br/>18 than I am. He told me he had a copy of the<br/>19 September '22 database. I can't tell you right now<br/>20 when it was created.<br/>21 Q. When did he tell you that?<br/>22 A. Over the past week.<br/>23 Q. Has this been disclosed to any other party<br/>24 in this litigation?<br/>25 A. I don't know.</p> |

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| <p style="text-align: right;">Page 126</p> <p><b>1 Q. What did he tell you about how he came to</b><br/> <b>2 learn of this copy?</b><br/> <b>3 A.</b> He told me he learned of the copy from<br/> <b>4</b> information that was provided from either Leadenhall<br/> <b>5</b> or Saiph.<br/> <b>6 MR. STARR:</b> Mr. Pellegrino, has this been<br/> <b>7</b> disclosed? This copy, has it been disclosed to<br/> <b>8</b> the other parties in this case?<br/> <b>9 MR. PELLEGRINO:</b> It came from the other<br/> <b>10</b> parties in the case.<br/> <b>11 MR. STARR:</b> It came from the other parties<br/> <b>12</b> in the case?<br/> <b>13 MR. PELLEGRINO:</b> That's correct. We were<br/> <b>14</b> unaware of it until disclosures.<br/> <b>15 MR. STARR:</b> From Saiph?<br/> <b>16 MR. PELLEGRINO:</b> Correct.<br/> <b>17 BY MR. STARR:</b><br/> <b>18 Q. Was this covered in any of Mr. Mazur's</b><br/> <b>19 reports?</b><br/> <b>20 MR. PELLEGRINO:</b> You, not me.<br/> <b>21 BY MR. STARR:</b><br/> <b>22 Q. Sorry. Yeah, I'm asking -- sorry. Back to</b><br/> <b>23 Mr. Shapiro.</b><br/> <b>24 Was this covered in any of Mr. Mazur's</b><br/> <b>25 reports?</b></p>                                                                                                                                                                                                             | <p style="text-align: right;">Page 128</p> <p><b>1</b> It wasn't the September '22 copy.<br/> <b>2 BY MR. STARR:</b><br/> <b>3 Q. So these other copies, where did information</b><br/> <b>4 about them come from?</b><br/> <b>5 A.</b> I thought it was from the Mazur report.<br/> <b>6</b> Evidently it -- if -- if it's not in the report, I<br/> <b>7</b> don't know where it came from.<br/> <b>8 Q. One second. I'm having a tech issue.</b><br/> <b>9 So earlier today, Mr. Shapiro, when we were</b><br/> <b>10 discussing the factors that in your view linked the</b><br/> <b>11 intrusions to Leadenhall, you said that these were all</b><br/> <b>12 coincidentally linked to timeframes and aspects that</b><br/> <b>13 could affect the New York litigation.</b><br/> <b>14 And so I want to ask again about any factual</b><br/> <b>15 basis you have to link Leadenhall to the intrusions.</b><br/> <b>16 And I really want to ask you in terms of facts, not</b><br/> <b>17 coincidental, you know, circumstances, but -- but</b><br/> <b>18 facts and whether that's an e-mail or a phone call</b><br/> <b>19 communication, a document that you've seen, something</b><br/> <b>20 specific and concrete. A specific concrete reason for</b><br/> <b>21 believing that something did or did not take place.</b><br/> <b>22 Do you understand what I'm looking for?</b><br/> <b>23 MR. PELLEGRINO:</b> Objection to form.<br/> <b>24 THE WITNESS:</b> Yes.<br/> <b>25 BY MR. STARR:</b></p> |
| <p style="text-align: right;">Page 127</p> <p><b>1 A.</b> No. It was subsequent to Mr. Mazur's<br/> <b>2</b> reports.<br/> <b>3 Q. And no information about a September 2022</b><br/> <b>4 copy of MPFIn came from Leadenhall, correct?</b><br/> <b>5 MR. PELLEGRINO:</b> Objection to form.<br/> <b>6 THE WITNESS:</b> Say that again.<br/> <b>7 BY MR. STARR:</b><br/> <b>8 Q. There was no information from Leadenhall</b><br/> <b>9 about the existence of a September 2022 copy of the</b><br/> <b>10 database, right?</b><br/> <b>11 A.</b> It came from Saiph.<br/> <b>12 Q. And so this September 2022 copy, whether or</b><br/> <b>13 not it exists, that did not inform your decision</b><br/> <b>14 about -- or your thinking about Leadenhall's</b><br/> <b>15 involvement at the time of filing of suit, right?</b><br/> <b>16 A.</b> No, we didn't know about it.<br/> <b>17 MR. PELLEGRINO:</b> Objection to form.<br/> <b>18 BY MR. STARR:</b><br/> <b>19 Q. And why did you testify earlier that it did?</b><br/> <b>20 MR. PELLEGRINO:</b> Objection to form.<br/> <b>21 THE WITNESS:</b> I shouldn't've -- it -- it<br/> <b>22</b> impacts it. It wasn't the -- it wasn't there at<br/> <b>23</b> the time we were making the decision. There were<br/> <b>24</b> other -- as I said, there were other copies that<br/> <b>25</b> we are aware of when we were making the decision.</p> | <p style="text-align: right;">Page 129</p> <p><b>1 Q. Could you identify for me any and all</b><br/> <b>2 factual bases you have for the assertion that</b><br/> <b>3 Leadenhall directed Noah Davis to gain unauthorized</b><br/> <b>4 access to 777's systems?</b><br/> <b>5 A.</b> Other than the factors I had talked about,<br/> <b>6</b> which are circumstantial evidence and the evidence<br/> <b>7</b> that's listed in the complaint, I don't have any other<br/> <b>8</b> evidence.<br/> <b>9 Q. Okay. So how are plaintiffs funding this</b><br/> <b>10 lawsuit?</b><br/> <b>11 A.</b> Through funds that we discussed before. We<br/> <b>12</b> pay attorneys out of corporate funds. It's paid --<br/> <b>13</b> they're paid from asset sales and funding from A-CAP.<br/> <b>14 Q. Could you estimate the amount of legal fees</b><br/> <b>15 and costs that plaintiffs have incurred in this</b><br/> <b>16 litigation?</b><br/> <b>17 A.</b> In this litigation?<br/> <b>18 Q. Yes. Just -- just Florida, not New York.</b><br/> <b>19 A.</b> Yeah. The last number I saw was less -- it<br/> <b>20</b> was 370,000, something like that. It's probably more.<br/> <b>21</b> That was maybe a month old.<br/> <b>22 Q. And plaintiffs have also hired another law</b><br/> <b>23 firm to represent them in this matter; is that right?</b><br/> <b>24 Gunster?</b><br/> <b>25 A.</b> Local, yeah. That would have been SGR. So</p>                                                          |

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| <p style="text-align: right;">Page 130</p> <p>1 Gunster would be additional to that, yes.</p> <p>2 <b>Q. Was Gunster hired by --</b></p> <p>3 MR. STARR: Well, withdraw that.</p> <p>4 BY MR. STARR:</p> <p>5 <b>Q. Who approved the retention of Gunster as</b></p> <p>6 <b>counsel?</b></p> <p>7 A. I guess that would be Ian, Ian Ratner.</p> <p>8 <b>Q. Okay. Did they require a retainer?</b></p> <p>9 A. Yes, but I don't know the amount.</p> <p>10 <b>Q. Can you identify the claims that plaintiffs</b></p> <p>11 <b>are asserting in this lawsuit?</b></p> <p>12 MR. PELLEGRINO: Objection to form.</p> <p>13 BY MR. STARR:</p> <p>14 <b>Q. The actual legal claims.</b></p> <p>15 A. The legal claims? I'd have to look at the</p> <p>16 complaint.</p> <p>17 <b>Q. Okay. And it's your position -- well, is it</b></p> <p>18 <b>your position that plaintiffs have suffered damages as</b></p> <p>19 <b>a result of the conduct alleged in the complaint?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Could you measure those damages in terms --</b></p> <p>22 <b>in monetary terms?</b></p> <p>23 A. I think the last -- last compilation we put</p> <p>24 together was approximately 200,000 of essentially</p> <p>25 detect and remediate; 200,000 in attorneys, which is</p>                                                                                         | <p style="text-align: right;">Page 132</p> <p>1 <b>fees?</b></p> <p>2 A. Which is now 400,000. And then you have the</p> <p>3 additional work that our people were doing at</p> <p>4 Suttonpark. That's pretty much the last. It -- when</p> <p>5 we came up with the estimate of 600,000, it was 200,</p> <p>6 200, 200.</p> <p>7 <b>Q. Okay. So --</b></p> <p>8 A. Now I would say the attorneys' fees are</p> <p>9 probably higher.</p> <p>10 <b>Q. So -- so categories two and three then are</b></p> <p>11 <b>attorneys' fees and the cost -- hourly cost of B.</b></p> <p>12 <b>Riley personnel's attention to this matter?</b></p> <p>13 A. B. -- B. Riley and any other people that we</p> <p>14 have to put on the -- on the case to monitor what's</p> <p>15 going on down there, yeah.</p> <p>16 <b>Q. So if you hadn't brought this litigation,</b></p> <p>17 <b>you wouldn't have incurred these fees, right? So are</b></p> <p>18 <b>there any independent damages, independent of the</b></p> <p>19 <b>hiring of outside advisors?</b></p> <p>20 A. We don't know.</p> <p>21 MR. PELLEGRINO: Objection to form.</p> <p>22 THE WITNESS: We don't know.</p> <p>23 MR. PELLEGRINO: You've got to pause for a</p> <p>24 second.</p> <p>25 THE WITNESS: Yeah.</p>                                                                                                                                                             |
| <p style="text-align: right;">Page 131</p> <p>1 now higher, so put that at 4 or 500,000; and then</p> <p>2 advisors and managers and things like that. The old</p> <p>3 number we had was around 600,000 and growing with</p> <p>4 attorneys' fees.</p> <p>5 <b>Q. So you said 200,000 initially. What was</b></p> <p>6 <b>that for?</b></p> <p>7 A. Basically Eric Mazur detect -- you know,</p> <p>8 hiring people to fix -- you know, fix the systems and</p> <p>9 essentially detect and remediate the -- the IT</p> <p>10 systems. That's my understanding.</p> <p>11 <b>Q. Okay. So one category of damages is the</b></p> <p>12 <b>cost of forensic experts to -- to remediate and -- and</b></p> <p>13 <b>scope the damage or the -- of the alleged intrusions?</b></p> <p>14 A. Investigate, scope, and remediate. Put it</p> <p>15 that way.</p> <p>16 <b>Q. And Mr. Mazur is involved in that?</b></p> <p>17 A. Yes, some of that.</p> <p>18 <b>Q. He also submitted an expert report?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. Could you estimate and ballpark how much of</b></p> <p>21 <b>that category of damages is attributable to expert</b></p> <p>22 <b>witness work versus remediation and...?</b></p> <p>23 A. I can't.</p> <p>24 <b>Q. Okay. And then the other category --</b></p> <p>25 <b>categories of damages, is -- is that simply attorneys'</b></p> | <p style="text-align: right;">Page 133</p> <p>1 We don't know. We don't know what -- if</p> <p>2 there's been damage to the system. We don't --</p> <p>3 you know, that's still to be determined. We</p> <p>4 know -- you know, we don't know what's out there</p> <p>5 right now and whether there's been damage to the</p> <p>6 system that -- that could occur. We don't know.</p> <p>7 BY MR. STARR:</p> <p>8 <b>Q. Do you think that pursuing this lawsuit is a</b></p> <p>9 <b>good use of funds for a cash strapped company?</b></p> <p>10 A. I do. If -- if it wasn't a good use of</p> <p>11 funds, we wouldn't be doing it.</p> <p>12 <b>Q. And you want to keep pursuing the</b></p> <p>13 <b>litigation?</b></p> <p>14 A. Ultimately settlement is always -- always</p> <p>15 good, but if we have to pursue it, we'll pursue it.</p> <p>16 <b>Q. And why do you think that it's a good use of</b></p> <p>17 <b>funds?</b></p> <p>18 A. The company was damaged. It's -- it's --</p> <p>19 you have to -- I mean, there's -- there's -- if -- if</p> <p>20 indeed that -- there's significant litigation going on</p> <p>21 in New York. If indeed there was data that was</p> <p>22 extracted that is impacting our ability to defend that</p> <p>23 case in New York, then we have to pursue it. There's</p> <p>24 a lot of money at stake up there.</p> <p>25 <b>Q. Do you contend that there was data extracted</b></p> |

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| <p style="text-align: right;">Page 134</p> <p>1 that's impacting your ability to defend the case in</p> <p>2 New York?</p> <p>3 A. I think I answered before. I don't know</p> <p>4 what was taken. We don't know. It's still to be</p> <p>5 determined.</p> <p>6 Q. Okay. How are you going to determine that?</p> <p>7 A. I'd have to ask the IT folks.</p> <p>8 Q. Expert work?</p> <p>9 A. Is that a question?</p> <p>10 Q. Would that be through expert work? Sorry.</p> <p>11 MR. PELLEGRINO: Objection.</p> <p>12 THE WITNESS: Probably continued forensic</p> <p>13 work, yes.</p> <p>14 BY MR. STARR:</p> <p>15 Q. On top of the 400,000 you've already spent</p> <p>16 to investigate?</p> <p>17 A. We have to find out what exactly was taken,</p> <p>18 yeah.</p> <p>19 Q. Okay. And in your view, all of that -- that</p> <p>20 whole -- all those categories of damages are</p> <p>21 recoverable in this case?</p> <p>22 MR. PELLEGRINO: Objection to form.</p> <p>23 THE WITNESS: Should be.</p> <p>24 BY MR. STARR:</p> <p>25 Q. What do you know Agent Max Davis?</p>                                                                                                                                                   | <p style="text-align: right;">Page 136</p> <p>1 for Noah Davis and there were -- was access points</p> <p>2 in either CrowdStrike or in the systems that --</p> <p>3 that he didn't know about. And so, yes, I do have</p> <p>4 concerns that, you know, they should be</p> <p>5 remediated.</p> <p>6 BY MR. STARR:</p> <p>7 Q. And as to Max Davis, were his credentials</p> <p>8 also left active?</p> <p>9 A. I believe they were terminated.</p> <p>10 Q. Then how did Max or someone using Max</p> <p>11 Davis's credentials gain access?</p> <p>12 MR. PELLEGRINO: Objection to form.</p> <p>13 THE WITNESS: I don't know.</p> <p>14 BY MR. STARR:</p> <p>15 Q. So are you -- have you been involved in the</p> <p>16 discovery efforts in this case?</p> <p>17 A. What -- can you be more specific?</p> <p>18 Q. Yeah.</p> <p>19 Have you been involved in responding to</p> <p>20 discovery?</p> <p>21 A. Which discovery?</p> <p>22 Q. Any discovery. Have you been involved in</p> <p>23 responding to any discovery requests from Leadenhall</p> <p>24 in this case?</p> <p>25 A. "In this case" you mean the Florida case?</p>              |
| <p style="text-align: right;">Page 135</p> <p>1 A. Just what I've read in -- in Eric's report.</p> <p>2 He's the other Davis's son.</p> <p>3 Q. And he also --</p> <p>4 A. Noah -- he's Noah Davis's son.</p> <p>5 Q. Do you know whether he also worked for 777</p> <p>6 Partners?</p> <p>7 A. I believe he did, yes.</p> <p>8 Q. Do you know what -- in what capacity?</p> <p>9 A. No.</p> <p>10 Q. What is your view or what do you think he</p> <p>11 was trying to do with respect to plaintiffs' systems?</p> <p>12 MR. PELLEGRINO: Objection to form.</p> <p>13 THE WITNESS: I believe the report indicates</p> <p>14 that they don't -- they don't -- it may not have</p> <p>15 been Max, that it could have been Noah just using</p> <p>16 Max's credentials and name for access.</p> <p>17 BY MR. STARR:</p> <p>18 Q. Do you have concerns about 777 Partners'</p> <p>19 cyber security practices with respect to old</p> <p>20 credentials?</p> <p>21 MR. PELLEGRINO: Objection to form.</p> <p>22 THE WITNESS: Yes. Obviously I think Shawn,</p> <p>23 even in his -- I wouldn't say it's in his</p> <p>24 deposition because I haven't seen his deposition,</p> <p>25 but he believed that he turned off the credentials</p> | <p style="text-align: right;">Page 137</p> <p>1 Q. Yes.</p> <p>2 A. Just in this recent e-mail production. I</p> <p>3 was on the phone calls with -- with Smith Gambrell and</p> <p>4 BakerHostetler last weekend.</p> <p>5 Q. Okay. So you weren't involved in any -- you</p> <p>6 weren't involved in any decisions about litigation</p> <p>7 holds, for instance?</p> <p>8 A. No.</p> <p>9 MR. PELLEGRINO: Objection.</p> <p>10 THE WITNESS: Sorry.</p> <p>11 BY MR. STARR:</p> <p>12 Q. Do you know who was?</p> <p>13 A. No, I don't.</p> <p>14 Q. And you weren't involved in responding to</p> <p>15 any interrogatories?</p> <p>16 A. Yes, I was -- I was involved in that.</p> <p>17 Q. What was the nature of your involvement?</p> <p>18 A. I believe I signed the response, so I had to</p> <p>19 understand them.</p> <p>20 Q. What do you mean you "had to understand</p> <p>21 them"?</p> <p>22 A. I mean, I -- I'm responding on behalf of the</p> <p>23 company. I'm not responding personally, so I had to</p> <p>24 run through them, agree with them. If -- if any I --</p> <p>25 I didn't understand or -- or agree, I thought</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 something was wrong, I would have had to review those<br/>2 with counsel.<br/>3 <b>Q. And did you conduct any investigation to be<br/>4 able to verify those responses?</b><br/>5 A. If I didn't know what the response was<br/>6 about, yes, I did.<br/>7 <b>Q. Did anyone assist you on that investigation?</b><br/>8 A. I don't recall on specifics who I would have<br/>9 spoken to. I don't know which response we're talking<br/>10 about.<br/>11 <b>Q. Did you consult with anyone in connection<br/>12 with responding to any interrogatory?</b><br/>13 A. I spoke with counsel.<br/>14 <b>Q. Okay.</b><br/>15 A. I don't believe I had to talk with anyone<br/>16 else, just counsel.<br/>17 <b>Q. All right. Is your data, your --</b><br/>18 MR. STARR: Withdraw that.<br/>19 BY MR. STARR:<br/>20 <b>Q. Are any of your documents and communications<br/>21 currently being preserved for purposes of this<br/>22 litigation?</b><br/>23 A. Yeah, I'm not -- I've not delete anything.<br/>24 Yes, they're being preserved.<br/>25 <b>Q. And you were -- were you instructed at a</b></p>                                                         | <p style="text-align: right;">Page 140</p> <p>1 <b>Q. Yeah. See, so I'm talking about this<br/>2 litigation that plaintiffs have filed, so 777 Partners<br/>3 and Suttonpark being the plaintiffs.</b><br/>4 <b>What I'm asking is whether -- whether you<br/>5 are the primary contact -- contact person within B.<br/>6 Riley for this litigation?</b><br/>7 A. I would say it's both Ian Ratner and me<br/>8 equally.<br/>9 <b>Q. Do you direct the litigation or does<br/>10 Mr. Ratner direct the litigation?</b><br/>11 A. We both do.<br/>12 MR. STARR: Can we mark that as -- what are<br/>13 we at, 5? Shapiro Exhibit 5, please.<br/>14 (Shapiro Exhibit 5 was marked for<br/>15 identification.)<br/>16 MR. STARR: For the folks on remotely, this<br/>17 is Plaintiffs' Responses to Leadenhall's Request<br/>18 For Admission.<br/>19 THE WITNESS: (Perusing.)<br/>20 BY MR. STARR:<br/>21 <b>Q. Have you ever seen this document before,<br/>22 Mr. Shapiro?</b><br/>23 A. (Perusing.)<br/>24 Yes, I have.<br/>25 <b>Q. Did you assist in responding to these</b></p>  |
| <p style="text-align: right;">Page 139</p> <p>1 <b>particular point to preserve data?</b><br/>2 A. I don't know if it was or not. I understand<br/>3 litigation holds and I would've done it naturally.<br/>4 <b>Q. So, yeah, I am referring to a litigation<br/>5 hold.</b><br/>6 <b>When did a litigation hold come into effect?</b><br/>7 A. I don't know. I don't know when it was<br/>8 issued.<br/>9 <b>Q. Okay. Is there a litigation -- litigation<br/>10 hold in place for this case at B. Riley?</b><br/>11 A. I'm not sure. Our legal -- if it went to --<br/>12 if there was a litigation hold, it would have gone to<br/>13 our legal team in -- in New York.<br/>14 <b>Q. Who at B. Riley is running point on this<br/>15 litigation? Is that you?</b><br/>16 A. Well, depends on what -- what area you're --<br/>17 you're talking about.<br/>18 <b>Q. Who's the primary client contact for this<br/>19 litigation at B. Riley?</b><br/>20 MR. PELLEGRINO: Objection to form.<br/>21 THE WITNESS: Are you talking in relation to<br/>22 B. Riley and preservation of documents or are you<br/>23 talking about B. Riley as it relates to the goings<br/>24 on at 777?<br/>25 BY MR. STARR:</p> | <p style="text-align: right;">Page 141</p> <p>1 <b>requests for admission?</b><br/>2 A. Yes.<br/>3 <b>Q. I'll direct you to Request Number 7.</b><br/>4 A. (Complying.)<br/>5 <b>Q. Let me know when you're there.</b><br/>6 A. I'm there.<br/>7 <b>Q. Earlier today you testified that you have no<br/>8 evidence that Leadenhall, in fact, received any<br/>9 information obtained through Davis's unauthorized<br/>10 intrusions, correct?</b><br/>11 MR. PELLEGRINO: Objection to form.<br/>12 THE WITNESS: No. If -- if I -- I don't<br/>13 believe that's what I said.<br/>14 BY MR. STARR:<br/>15 <b>Q. Okay.</b><br/>16 A. I said that the evidence is circumstantial.<br/>17 You've taken that to mean there's no evidence.<br/>18 <b>Q. Okay. What evidence do you have that<br/>19 Leadenhall received any information obtained through<br/>20 Davis's alleged --</b><br/>21 MR. PELLEGRINO: Objection.<br/>22 BY MR. STARR:<br/>23 <b>Q. -- unauthorized intrusions?</b><br/>24 MR. PELLEGRINO: Objection to form.<br/>25 THE WITNESS: I think we've said frequently</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 that the evidence is circumstantial. You may not</p> <p>2 agree that that's evidence, but it is</p> <p>3 circumstantial. We were talking about the copies</p> <p>4 of the database, the Pasko e-mails, the Logee</p> <p>5 e-mails, the other 9 or 10 factors that are listed</p> <p>6 in the complaint.</p> <p>7 BY MR. STARR:</p> <p>8 <b>Q. So I think earlier when we discussed that,</b></p> <p>9 <b>that was in relation to a question I posed about</b></p> <p>10 <b>whether Leadenhall directed Davis's actions -- alleged</b></p> <p>11 <b>actions. I'm now asking whether you have any evidence</b></p> <p>12 <b>that Leadenhall received any information that was</b></p> <p>13 <b>allegedly obtained by Davis.</b></p> <p>14 A. (Perusing.)</p> <p>15 I believe this says that "substantial</p> <p>16 circumstantial evidence exists demonstrating that</p> <p>17 Leadenhall directed, encouraged, or induced Davis's</p> <p>18 intrusions and may at some point have received,</p> <p>19 reviewed, or possessed" --</p> <p>20 THE COURT REPORTER: Wait.</p> <p>21 THE WITNESS: -- "property or information</p> <p>22 wrongfully obtained by Davis."</p> <p>23 That's what it says in Number 7.</p> <p>24 MR. PELLEGRINO: Do you need him to read it</p> <p>25 back?</p> | <p style="text-align: right;">Page 144</p> <p>1 <b>Q. This is --</b></p> <p>2 MR. PELLEGRINO: I'm sorry.</p> <p>3 BY MR. STARR:</p> <p>4 <b>Q. -- Plaintiffs' Responses --</b></p> <p>5 MR. STARR: Do you have the wrong one?</p> <p>6 MR. PELLEGRINO: Yeah.</p> <p>7 MR. STARR: Okay.</p> <p>8 MR. PELLEGRINO: They're the same document.</p> <p>9 MR. STARR: Oh, my bad.</p> <p>10 THE WITNESS: That's what I thought.</p> <p>11 MR. PELLEGRINO: Do you have the right one?</p> <p>12 It's something different than the admissions.</p> <p>13 BY MR. STARR:</p> <p>14 <b>Q. Does yours say "interrogatories" or "request</b></p> <p>15 <b>for admission"?</b></p> <p>16 A. "First set of interrogatories."</p> <p>17 No, I have the interrogatories.</p> <p>18 <b>Q. Okay.</b></p> <p>19 A. The first one was because --</p> <p>20 <b>Q. I just gave your counsel the wrong --</b></p> <p>21 A. Got it.</p> <p>22 <b>Q. -- document is all.</b></p> <p>23 <b>Okay. So these are "Plaintiffs' Responses</b></p> <p>24 <b>and Objections to Leadenhall's First Interrogatories,"</b></p> <p>25 <b>correct?</b></p>                                                                                                                                                                     |
| <p style="text-align: right;">Page 143</p> <p>1 THE COURT REPORTER: Yes.</p> <p>2 MR. PELLEGRINO: Go slow, please.</p> <p>3 THE WITNESS: "Substantial circumstantial</p> <p>4 evidence exists demonstrating that Leadenhall</p> <p>5 directed, encouraged, or induced Davis's</p> <p>6 intrusions and may at some point have received,</p> <p>7 reviewed, or possessed property or information</p> <p>8 wrongfully obtained by Davis."</p> <p>9 BY MR. STARR:</p> <p>10 <b>Q. "May at some point have received," right?</b></p> <p>11 A. Correct.</p> <p>12 <b>Q. Okay.</b></p> <p>13 MR. STARR: Let's mark this exhibit, please.</p> <p>14 (Shapiro Exhibit 6 was marked for</p> <p>15 identification.)</p> <p>16 BY MR. STARR:</p> <p>17 <b>Q. This will be Shapiro Exhibit 6.</b></p> <p>18 A. (Perusing.)</p> <p>19 MR. PELLEGRINO: Do you have a copy for me?</p> <p>20 MR. STARR: Yeah, I do. But I have too many</p> <p>21 things out. One second.</p> <p>22 MR. PELLEGRINO: Thank you.</p> <p>23 BY MR. STARR:</p> <p>24 <b>Q. Mr. Shapiro, do you recognize this document?</b></p> <p>25 A. I do (perusing).</p>                                                                                                                                                                                                           | <p style="text-align: right;">Page 145</p> <p>1 A. Correct.</p> <p>2 MR. MORLAN: And this is 6, right?</p> <p>3 MR. STARR: This is Exhibit Number 6, yes.</p> <p>4 BY MR. STARR:</p> <p>5 <b>Q. So I just want to direct you to</b></p> <p>6 <b>Interrogatory Number 4.</b></p> <p>7 A. (Complying.)</p> <p>8 <b>Q. So this interrogatory refers back to Request</b></p> <p>9 <b>For Admission Number 7, which we just discussed --</b></p> <p>10 A. Yes (perusing).</p> <p>11 <b>Q. -- right?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. Okay. This says -- Interrogatory Number 4</b></p> <p>14 <b>says "If You deny Request for Admission Number 7,</b></p> <p>15 <b>explain in detail the basis for Your denial and</b></p> <p>16 <b>identify with specificity what information Leadenhall</b></p> <p>17 <b>received from Davis, when and how Leadenhall received</b></p> <p>18 <b>such information, and how You learned of such facts,"</b></p> <p>19 <b>right?</b></p> <p>20 A. Yes (perusing).</p> <p>21 <b>Q. Okay. Could you please read the response to</b></p> <p>22 <b>Interrogatory Number 4 carefully?</b></p> <p>23 <b>And once you do, my question will be: Does</b></p> <p>24 <b>it identify any information that Leadenhall received</b></p> <p>25 <b>from Davis?</b></p> |

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| <p style="text-align: right;">Page 146</p> <p>1 A. (Perusing.)</p> <p>2 Okay.</p> <p>3 <b>Q. Okay. So my question again: Does it</b></p> <p>4 <b>identify -- does that response to Interrogatory Number</b></p> <p>5 <b>4 identify any information Leadenhall, in fact,</b></p> <p>6 <b>received from Davis?</b></p> <p>7 A. So it -- it lists the factors. And then the</p> <p>8 paragraph before says "Subject to and without waiving</p> <p>9 any of the foregoing objection, Plaintiffs are aware,</p> <p>10 at minimum, of the following facts, obtained from</p> <p>11 managing Plaintiffs, access to records, current</p> <p>12 employees, and information sufficient to be reasonably</p> <p>13 informed, the investigation of counsel, and the</p> <p>14 forensic investigation conducted by Eric Mazur,</p> <p>15 supporting the inference that Leadenhall may have</p> <p>16 received or reviewed some or all of the information</p> <p>17 that Davis improperly accessed or obtained from</p> <p>18 Plaintiffs' systems."</p> <p>19 And then it goes into and lists the facts.</p> <p>20 <b>Q. So it says "supporting the inference,"</b></p> <p>21 <b>right?</b></p> <p>22 A. Yes, it does.</p> <p>23 <b>Q. Would you agree that there are no facts</b></p> <p>24 <b>cited that indicate Leadenhall actually received any</b></p> <p>25 <b>information?</b></p> | <p style="text-align: right;">Page 148</p> <p>1 <b>investigation conducted by Eric Mazur, right?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. Do you know that Mazur testified he had no</b></p> <p>4 <b>evidence inculpatng Leadenhall?</b></p> <p>5 A. I'm not aware of that.</p> <p>6 <b>Q. Well, and earlier today you said that</b></p> <p>7 <b>Mr. Mazur's report did not link any intrusions to</b></p> <p>8 <b>Leadenhall, right?</b></p> <p>9 MR. PELLEGRINO: Objection to form.</p> <p>10 THE WITNESS: I did.</p> <p>11 BY MR. STARR:</p> <p>12 <b>Q. Okay. So how would Mr. Mazur's report</b></p> <p>13 <b>demonstrate that Leadenhall received any information</b></p> <p>14 <b>allegedly obtained by Davis's intrusions?</b></p> <p>15 MR. PELLEGRINO: Objection to form.</p> <p>16 THE WITNESS: I -- I think there's mixed up</p> <p>17 questions there. Could you repeat the question?</p> <p>18 BY MR. STARR:</p> <p>19 <b>Q. Yeah.</b></p> <p>20 <b>So how would Mr. Mazur's report provide</b></p> <p>21 <b>evidence that Leadenhall received information obtained</b></p> <p>22 <b>by Davis through the intrusions?</b></p> <p>23 A. Let me answer it this way: I'm aware that</p> <p>24 the report didn't have any links to Leadenhall. I</p> <p>25 believe your question was did you know that Eric Mazur</p> |
| <p style="text-align: right;">Page 147</p> <p>1 MR. PELLEGRINO: Objection to form.</p> <p>2 THE WITNESS: I think the document speaks</p> <p>3 for itself. It lists the facts and says the facts</p> <p>4 support the inference that they may have received</p> <p>5 and reviewed some of the information.</p> <p>6 BY MR. STARR:</p> <p>7 <b>Q. Okay. Do you think Request For Admission</b></p> <p>8 <b>Number 7 was properly denied or should it have been</b></p> <p>9 <b>admitted?</b></p> <p>10 MR. PELLEGRINO: Objection to form.</p> <p>11 THE WITNESS: I'd ask my counsel whether</p> <p>12 that should have been admitted or not.</p> <p>13 BY MR. STARR:</p> <p>14 <b>Q. Did you provide input to responding to -- on</b></p> <p>15 <b>the responses to request for admission?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. So I'm just asking in your view whether</b></p> <p>18 <b>Request For Admission Number 7 should have been</b></p> <p>19 <b>admitted or denied?</b></p> <p>20 MR. PELLEGRINO: Objection to form.</p> <p>21 THE WITNESS: It was denied. I'm okay with</p> <p>22 that.</p> <p>23 BY MR. STARR:</p> <p>24 <b>Q. One of the -- one of the items mentioned in</b></p> <p>25 <b>response to Interrogatory Number 4 is the forensic</b></p>                                                                                                            | <p style="text-align: right;">Page 149</p> <p>1 said he had no information. He could have had more</p> <p>2 information than was in the report. I just said I --</p> <p>3 I'm not aware that Eric said he had no information.</p> <p>4 <b>Q. And so my question is: How would</b></p> <p>5 <b>Mr. Mazur's report, which is what's -- the</b></p> <p>6 <b>investigation conducted by Mr. Mazur, how would that</b></p> <p>7 <b>support the response given to this interrogatory?</b></p> <p>8 MR. PELLEGRINO: Objection to form.</p> <p>9 THE WITNESS: (Perusing.)</p> <p>10 It supports the facts that we listed.</p> <p>11 BY MR. STARR:</p> <p>12 <b>Q. Which facts are those?</b></p> <p>13 A. Many of these facts came from Mazur's</p> <p>14 report. I'm not sure exactly which ones were and</p> <p>15 which ones weren't.</p> <p>16 <b>Q. Okay. So you can't identify which facts</b></p> <p>17 <b>came from Mr. Mazur?</b></p> <p>18 A. No, I can't.</p> <p>19 <b>Q. Okay.</b></p> <p>20 MR. PELLEGRINO: Objection to form.</p> <p>21 MR. STARR: Let's take a quick break. I may</p> <p>22 be just about done, although the friends on screen</p> <p>23 may have some questions for you, so...</p> <p>24 THE VIDEOGRAPHER: Sure.</p> <p>25 Going off the record. The time is 2:52.</p>                             |

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| <p style="text-align: right;">Page 150</p> <p>1 (A recess was taken.)</p> <p>2 THE VIDEOGRAPHER: We're back on the record.</p> <p>3 The time is 3:08.</p> <p>4 BY MR. STARR:</p> <p>5 <b>Q. Okay. Mr. Shapiro, earlier today in your</b></p> <p>6 <b>testimony, Mr. Pasko was one person you specifically</b></p> <p>7 <b>identified as someone who believed Leadenhall was</b></p> <p>8 <b>behind Davis's intrusions, right?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. Mr. Pasko is a former managing partner who</b></p> <p>11 <b>had to resign, right?</b></p> <p>12 A. Correct.</p> <p>13 <b>Q. And he resigned the same weekend that</b></p> <p>14 <b>Leadenhall filed its complaint in New York?</b></p> <p>15 A. It might have been the next week, depending</p> <p>16 on -- no, I think it was the same week. You're right.</p> <p>17 <b>Q. We filed our complaint on Friday, May 3rd.</b></p> <p>18 A. Then it would have been the following week</p> <p>19 he resigned.</p> <p>20 <b>Q. Okay. And B. Riley was on the ground?</b></p> <p>21 A. Following week.</p> <p>22 <b>Q. Okay. Within days.</b></p> <p>23 <b>And he is accused of fraud in the New York</b></p> <p>24 <b>case, correct?</b></p> <p>25 A. Correct.</p>                                                                                                                                                                                     | <p style="text-align: right;">Page 152</p> <p>1 A. I'm not sure Chris O'Reilly was. He would</p> <p>2 be the one that I'm thinking of.</p> <p>3 <b>Q. Okay. Everyone else --</b></p> <p>4 A. I believe so.</p> <p>5 <b>Q. -- you would agree?</b></p> <p>6 A. I believe so.</p> <p>7 <b>Q. Okay.</b></p> <p>8 A. And Ian Ratner and myself.</p> <p>9 <b>Q. Yes, I meant to refer only to the 777 folks.</b></p> <p>10 A. Well, Jim -- Jim Howard works for B. Riley.</p> <p>11 <b>Q. Yeah.</b></p> <p>12 <b>So -- and B. Riley wasn't involved at 777</b></p> <p>13 <b>Partners until after Mr. Davis resigned?</b></p> <p>14 A. Correct.</p> <p>15 <b>Q. Right.</b></p> <p>16 <b>So what did or did the B. Riley team do</b></p> <p>17 <b>anything to verify the beliefs of the 777 employees</b></p> <p>18 <b>you just identified?</b></p> <p>19 A. Well, we hired Eric Mazur to do the forensic</p> <p>20 investigation, to aggregate the evidence. Again, much</p> <p>21 of the evidence is circumstantial, which you don't</p> <p>22 agree is evidence, but it is circumstantial evidence.</p> <p>23 We assess the evidence, discussed it with counsel, we</p> <p>24 came to our decision.</p> <p>25 <b>Q. Okay. At the time that you decided to file</b></p>                                       |
| <p style="text-align: right;">Page 151</p> <p>1 <b>Q. Would you agree that Mr. Pasko therefore has</b></p> <p>2 <b>an interest in derailing the New York litigation?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. So why would you take Mr. Pasko's word that</b></p> <p>5 <b>Leadenhall was behind it?</b></p> <p>6 A. I didn't say I took Pasko's word. I said he</p> <p>7 was one of many who said that Leadenhall was behind</p> <p>8 this. It wasn't just Steve Pasko.</p> <p>9 <b>Q. So who else said that Leadenhall was behind</b></p> <p>10 <b>this?</b></p> <p>11 A. It was a group. I don't think there was</p> <p>12 anybody who didn't think Leadenhall was behind this.</p> <p>13 <b>Q. Okay. Can you identify all of the persons</b></p> <p>14 <b>who believed that Leadenhall was behind this?</b></p> <p>15 A. Chris O'Reilly, Ian Ratner, Mark Shapiro,</p> <p>16 Jon Walder, Mollie Wander -- yes, she's Josh Wander's</p> <p>17 sister -- Shawn Taheri, Jim Howard. Hopefully I</p> <p>18 didn't misrepresent their positions.</p> <p>19 <b>Q. So all of those individuals, with the</b></p> <p>20 <b>exception of Mr. Howard, were employed by 777 Partners</b></p> <p>21 <b>over the period of time relevant to Leadenhall's New</b></p> <p>22 <b>York complaint, right?</b></p> <p>23 MR. PELLEGRINO: Objection to form.</p> <p>24 BY MR. STARR:</p> <p>25 <b>Q. Well, let me ask it this way.</b></p> | <p style="text-align: right;">Page 153</p> <p>1 <b>this lawsuit, did you have any hope that it would slow</b></p> <p>2 <b>the progress or distract from the New York litigation?</b></p> <p>3 A. That wasn't -- that wasn't my belief or</p> <p>4 hope.</p> <p>5 <b>Q. Was that a factor discussed amongst the</b></p> <p>6 <b>nonlawyers that you identified?</b></p> <p>7 A. I don't recall that being discussed.</p> <p>8 <b>Q. But you would agree that the 777 Partners</b></p> <p>9 <b>team, which is implicated in the fraud alleged by</b></p> <p>10 <b>Leadenhall in New York, would have an interest in</b></p> <p>11 <b>slowing down or derailing the New York litigation?</b></p> <p>12 MR. PELLEGRINO: Objection to form.</p> <p>13 THE WITNESS: No, I don't agree with that.</p> <p>14 BY MR. STARR:</p> <p>15 <b>Q. Why not?</b></p> <p>16 A. I -- I don't -- I don't think there's --</p> <p>17 look, I can't -- I can't speak -- maybe I shouldn't</p> <p>18 say I do not. I can't speak for them. I don't know</p> <p>19 what they believe. Let me restate that.</p> <p>20 <b>Q. Okay.</b></p> <p>21 MR. STARR: No further questions for</p> <p>22 Leadenhall at this time.</p> <p>23 Does counsel for Saiph or Davis have?</p> <p>24 MR. MORLAN: Yes.</p> <p>25 CROSS-EXAMINATION</p> |

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| <p style="text-align: right;">Page 154</p> <p>1 BY MR. MORLAN:</p> <p>2 <b>Q. Mr. Ratner, my name is Hal Morlan. I'm an</b></p> <p>3 <b>attorney representing Saiph Consulting LLC and Paul</b></p> <p>4 <b>Kosinski in this litigation.</b></p> <p>5 <b>Are you familiar with who my clients are?</b></p> <p>6 A. I am. And I'm -- I'm Mr. Shapiro. Tomorrow</p> <p>7 is Mr. Ratner.</p> <p>8 <b>Q. Did I call you Mr. Ratner? I'm --</b></p> <p>9 A. Yeah.</p> <p>10 <b>Q. I'm sorry, Mr. Shapiro.</b></p> <p>11 <b>So, Mr. Shapiro, have you ever met Paul</b></p> <p>12 <b>Kosinski?</b></p> <p>13 A. I don't believe I have.</p> <p>14 <b>Q. Have you ever met Noah Davis?</b></p> <p>15 A. No.</p> <p>16 <b>Q. Have you ever met Kenneth King?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. How did you meet Kenneth King?</b></p> <p>19 A. We had a settlement conference in New York.</p> <p>20 He was at the settlement conference.</p> <p>21 <b>Q. Okay. Have you spoken with Mr. King about</b></p> <p>22 <b>the litigation that we're here on today?</b></p> <p>23 A. I don't believe so.</p> <p>24 <b>Q. Have you spoken with Mr. King about the</b></p> <p>25 <b>litigation in New York between Leadenhall and 777?</b></p>                                                                                                                                                                                                                                  | <p style="text-align: right;">Page 156</p> <p>1 A. I spoke with him a couple of days ago.</p> <p>2 <b>Q. And what did you learn during your</b></p> <p>3 <b>conversation with Mr. Mazur a couple days ago?</b></p> <p>4 MR. PELLEGRINO: Objection to form.</p> <p>5 THE WITNESS: We talked about the</p> <p>6 September 2022 copy of the MPFin. I wanted to</p> <p>7 understand how he discovered more detail about how</p> <p>8 he discovered that and how he came to be aware of</p> <p>9 it.</p> <p>10 BY MR. MORLAN:</p> <p>11 <b>Q. Okay. And how did he discover it?</b></p> <p>12 A. I don't want to speak for him. I'll -- I'll</p> <p>13 tell you what my understanding is. He found it -- he</p> <p>14 found out about it from documents that were pro- --</p> <p>15 that were produced by Saiph as part of this</p> <p>16 litigation.</p> <p>17 <b>Q. And are you saying that he found an actual</b></p> <p>18 <b>copy of the September of 2022 MPFin database?</b></p> <p>19 MR. PELLEGRINO: Objection to form.</p> <p>20 THE WITNESS: I believe he found reference</p> <p>21 to it, that it was copied. I can't tell you</p> <p>22 whether or not he's actually seen the copy. You'd</p> <p>23 have to talk to him.</p> <p>24 BY MR. MORLAN:</p> <p>25 <b>Q. So Mr. Mazur told you that he found a</b></p> |
| <p style="text-align: right;">Page 155</p> <p>1 A. Just in -- my only conversations with him</p> <p>2 are can we please find a way to settle this. We don't</p> <p>3 go into specifics.</p> <p>4 <b>Q. Okay. And when you said -- I believe you</b></p> <p>5 <b>said earlier that you didn't believe you talked to</b></p> <p>6 <b>Mr. King about the litigation that we're here today;</b></p> <p>7 <b>is that correct?</b></p> <p>8 A. I don't -- I don't think so. I -- I mean,</p> <p>9 he -- I may have talked to him and said I'm going for</p> <p>10 a deposition. I -- I don't -- I mean, I want to be</p> <p>11 factually correct. We really -- we haven't spoken</p> <p>12 about the case, but I can't say that I might not have</p> <p>13 said, oh, I'm going into a deposition in the</p> <p>14 litigation in Florida and he could have said, you</p> <p>15 know -- you know, I -- I don't know what he said.</p> <p>16 <b>Q. Okay.</b></p> <p>17 A. But -- but it -- it wouldn't be in detail</p> <p>18 about the case if I spoke about anything with him.</p> <p>19 <b>Q. When was the last time you spoke to Shawn</b></p> <p>20 <b>Taheri about the subject matter of the litigation that</b></p> <p>21 <b>we're here on today?</b></p> <p>22 A. It's -- it's been some time, months.</p> <p>23 <b>Q. When was the last time that you spoke with</b></p> <p>24 <b>Mr. Mazur about the litigation that we're here on</b></p> <p>25 <b>today?</b></p> | <p style="text-align: right;">Page 157</p> <p>1 <b>reference to an MPFin backup from September '22 being</b></p> <p>2 <b>copied?</b></p> <p>3 A. I don't want to -- I don't want to mix words</p> <p>4 or misrepresent what Eric told me. My understanding</p> <p>5 was that there are references to a 9/22 copy of the</p> <p>6 MPFin database. Eric would know in specific technical</p> <p>7 terms what he saw, how it was referenced, whether he</p> <p>8 saw a copy. He would be better at it than I would.</p> <p>9 <b>Q. And is it your understanding that Mr. Mazur</b></p> <p>10 <b>found this reference to the 2022 MPFin database by</b></p> <p>11 <b>looking at forensic data?</b></p> <p>12 A. No.</p> <p>13 <b>Q. This was just in some of the documents that</b></p> <p>14 <b>Saiph produced?</b></p> <p>15 A. That's my understanding.</p> <p>16 <b>Q. Okay. Have you seen the document at -- at</b></p> <p>17 <b>issue?</b></p> <p>18 A. I have not.</p> <p>19 <b>Q. But it's your testimony that this issue with</b></p> <p>20 <b>respect to the September 22nd [sic] MPFin file</b></p> <p>21 <b>reference is important to this litigation?</b></p> <p>22 MR. PELLEGRINO: Objection to form.</p> <p>23 THE WITNESS: Could you repeat that?</p> <p>24 BY MR. MORLAN:</p> <p>25 <b>Q. Sure.</b></p>    |

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| <p style="text-align: right;">Page 158</p> <p>1 Is it your testimony that what you learned<br/>2 from Eric Mazur about references to a September 2022<br/>3 version of MPFin is a significant fact in this<br/>4 litigation?<br/>5 A. That was -- if -- if it was important to<br/>6 Eric. I -- I believe if it's important to Eric, then<br/>7 it's important to me.<br/>8 Q. Okay. How did Eric explain the importance<br/>9 of it to you?<br/>10 MR. PELLEGRINO: Objection to form.<br/>11 THE WITNESS: It was the importance of the<br/>12 timing and how it relates to the original<br/>13 Leadenhall complaint. The -- if I remember my<br/>14 dates correctly, the original tip to Leadenhall<br/>15 of -- of suspected fraud at 777 was in September<br/>16 of 2022.<br/>17 BY MR. MORLAN:<br/>18 Q. Did -- has Eric Mazur uncovered any forensic<br/>19 evidence of where the September 2022 MPFin file that<br/>20 you're referencing came from?<br/>21 A. You'd have to talk to Eric. I don't know.<br/>22 Q. Okay. Other than the coincidence of the<br/>23 timing of the date of that MPFin file and some<br/>24 allegations in a complaint, are there any -- is there<br/>25 any other significance as to the reference to the 2022</p> | <p style="text-align: right;">Page 160</p> <p>1 A. I mean, stated making copies. I mean,<br/>2 having access, possibly changing -- you know, I don't<br/>3 want to limit it to just making a copy. It's<br/>4 basically accessing the data, making copies of the<br/>5 data, potentially uploading it to -- there's a whole<br/>6 host of things that could happen. It was unauthorized<br/>7 intrusion and who knows what was done in there.<br/>8 It's -- it's all important.<br/>9 Q. And -- and when you said "they," who is<br/>10 they?<br/>11 A. When I say "they," I mean Saiph and Noah and<br/>12 to the extent Paul is Saiph -- Saiph, Paul.<br/>13 Q. You mentioned intrusions. There's not<br/>14 actually any forensic evidence tying this 2022 MPFin<br/>15 file to any of the intrusions, is there?<br/>16 MR. PELLEGRINO: Objection to form.<br/>17 THE WITNESS: I don't know. You'd have to<br/>18 ask Eric.<br/>19 BY MR. MORLAN:<br/>20 Q. Okay. Have you read Mr. Mazur's reports?<br/>21 A. I have.<br/>22 Q. Okay. And you've spoken with Mr. Mazur<br/>23 about this case, correct?<br/>24 A. Yes.<br/>25 Q. Okay. And has Mr. Mazur been available to</p> |
| <p style="text-align: right;">Page 159</p> <p>1 MPFin file with respect to your views in this<br/>2 litigation?<br/>3 A. Well --<br/>4 MR. PELLEGRINO: Objection to form.<br/>5 THE WITNESS: Well, just the fact that they<br/>6 would copy a file of -- of the data for a client<br/>7 that is in litigation with the company that<br/>8 they're in -- they're -- they're doing the audit<br/>9 on is -- I think is important. Regardless of the<br/>10 date. I think September '22 is a very important<br/>11 date, but just any date I think regardless if<br/>12 they're making copies of the data files.<br/>13 BY MR. MORLAN:<br/>14 Q. Okay. So one aspect of the significance of<br/>15 it, I believe you're testifying to, is the timing; is<br/>16 that correct?<br/>17 A. Yes.<br/>18 Q. Okay.<br/>19 MR. PELLEGRINO: I'm going to object to<br/>20 form. I'm sorry.<br/>21 BY MR. MORLAN:<br/>22 Q. And then the other aspect that you said is<br/>23 important is the fact that they are making copies of<br/>24 it. Is that what -- that what you stated just now?<br/>25 Did I understand you correctly?</p>                                                                                                                           | <p style="text-align: right;">Page 161</p> <p>1 answer any questions you have about this case to you<br/>2 as a resource?<br/>3 A. Yes.<br/>4 Q. Has Mr. Mazur refused to answer any of your<br/>5 questions about this case?<br/>6 A. No.<br/>7 Q. Did you ask Mr. Mazur if he had any forensic<br/>8 evidence tying the purported 2022 MP file to any of<br/>9 the intrusions he identified in any of his reports?<br/>10 A. Did I personally ask him that question?<br/>11 Q. Correct.<br/>12 A. No.<br/>13 Q. Why not?<br/>14 A. There's a lot going on. There's a lot of<br/>15 people involved in the investigation. I've talked to<br/>16 Eric a few times during the investigation, but there's<br/>17 other people involved as well. Just not me.<br/>18 Q. Okay. Who else is involved in the<br/>19 investigation?<br/>20 A. I think I represented before that it would<br/>21 be Shawn Taheri, Jim Howard, probably to a lesser<br/>22 extent Teresa Licamora, Chris O'Reilly, Jon Walder,<br/>23 possibly Mollie Wander. Quite a few people. But the<br/>24 people actually doing the investigation primarily are<br/>25 Eric and -- and Shawn.</p>                    |

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| <p style="text-align: right;">Page 162</p> <p>1 Q. Okay. Yes, because I was just going to ask<br/>2 when I -- when I asked Mr. Taheri who was involved in<br/>3 the investigation, he told me that it was him and<br/>4 Mr. Mazur. Do you have any reason to disagree with<br/>5 him on that?<br/>6 A. No. That's why I was just saying when it<br/>7 comes to the actual investigation, it was him and<br/>8 Eric.<br/>9 Q. Okay. Have there been any other cyber<br/>10 security incidents or breaches during your tenure at<br/>11 Suttonpark and 777?<br/>12 MR. PELLEGRINO: Subjection -- or objection<br/>13 to form.<br/>14 THE WITNESS: I'm not aware of any. Shawn<br/>15 may, but I don't.<br/>16 BY MR. MORLAN:<br/>17 Q. And what information -- what additional<br/>18 information did you ask Mr. Mazur about this<br/>19 September 22nd [sic] MPFin file?<br/>20 MR. PELLEGRINO: Objection to form.<br/>21 THE WITNESS: It was just general questions<br/>22 to understand where he found -- what he found --<br/>23 how he found it and where it was located.<br/>24 BY MR. MORLAN:<br/>25 Q. Where was it located?</p>                                                                               | <p style="text-align: right;">Page 164</p> <p>1 A. Correct.<br/>2 Q. And did you ask any follow-up question<br/>3 besides that?<br/>4 A. I don't recall in detail. It was, you know,<br/>5 when did -- when did you find it? When did you get<br/>6 the documents? That's most of the questioning.<br/>7 Q. And when did he get the documents?<br/>8 A. It was in the documents that were produced<br/>9 from Saiph. Fairly recently, I believe it was over<br/>10 the past few weeks.<br/>11 Q. So not the exchange of potential 777 data,<br/>12 those files that were provided?<br/>13 A. I don't -- I don't know.<br/>14 Q. I want to understand your role at 777 and --<br/>15 and B. Riley just a little bit better. I don't want<br/>16 to belabor it, but am I correct that you're the acting<br/>17 chief operating officer of 777?<br/>18 A. I believe the title is --<br/>19 Q. Is that right?<br/>20 A. -- interim chief operating officer.<br/>21 Q. And big picture, what are your areas of<br/>22 responsibilities as the chief operating officer?<br/>23 A. I think I listed our duties in the -- in the<br/>24 declaration, but it's typical of a chief restructuring<br/>25 officer in other engagements. You're managing the</p> |
| <p style="text-align: right;">Page 163</p> <p>1 A. I'm saying in the documents that came from<br/>2 Saiph. How he -- how he discovered it.<br/>3 Q. How did he discover it?<br/>4 A. I just said, from the documents. He -- it<br/>5 was listed in the documents that came from Saiph. I<br/>6 can't tell you any more than -- I don't know context.<br/>7 It was a technical file that he looked at or whether<br/>8 it was just a reference to a file.<br/>9 Q. Have you reviewed any documentation about<br/>10 this 2022 MPFin file?<br/>11 A. No.<br/>12 Q. Besides Shawn Taheri and Mr. Mazur, is there<br/>13 anyone at 777 or B. Riley that's more knowledgeable<br/>14 about the investigations relevant to this case than<br/>15 you and Mr. Ratner?<br/>16 A. Jim Howard may be more up to speed on the<br/>17 investigations than me and Mr. Ratner from the B.<br/>18 Riley side.<br/>19 Q. So what were the questions that you asked<br/>20 Mr. Mazur about the 2022 MPFin file referenced?<br/>21 A. How did you find out about it.<br/>22 Q. Okay. And -- and his answer was --<br/>23 A. And when -- and when -- and when did --<br/>24 Q. -- it was in some documents produced by<br/>25 Saiph?</p> | <p style="text-align: right;">Page 165</p> <p>1 finances. You're doing budgets and forecasts. You're<br/>2 working with the lenders.<br/>3 In this particular instance, we're -- we're<br/>4 charged with trying to resolve litigation disputes.<br/>5 We're -- we're, for better or for worse, running the<br/>6 company and trying to monetize the assets.<br/>7 Q. And when you are referring to your<br/>8 declaration, are you referring to declaration in this<br/>9 matter or are you referring to your declaration in the<br/>10 New York matter?<br/>11 A. In the New York matter.<br/>12 Q. And I believe that --<br/>13 MR. MORLAN: Did we mark the New York<br/>14 declaration as an exhibit earlier?<br/>15 MR. STARR: I think that was Number 1, yeah.<br/>16 MR. MORLAN: Okay.<br/>17 BY MR. MORLAN:<br/>18 Q. And have you done any declarations in this<br/>19 litigation? And you understand when I say "this<br/>20 litigation," I'm referring to the case that we're here<br/>21 on that's pending in the Southern District of Florida,<br/>22 correct?<br/>23 A. Correct. I did -- I did make a declaration<br/>24 in the -- in the Florida litigation.<br/>25 Q. And are all the statements contained within</p>              |

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| <p style="text-align: right;">Page 166</p> <p>1 that declaration true and accurate?</p> <p>2 A. To the best and to my knowledge, yes.</p> <p>3 Q. And did you review the complaint that was</p> <p>4 filed in this action in September prior to its being</p> <p>5 filed?</p> <p>6 A. Yes.</p> <p>7 Q. And at the time you reviewed that complaint,</p> <p>8 did you understand all of the allegations in that</p> <p>9 complaint to be true?</p> <p>10 A. It's my under- -- well, the allegations to</p> <p>11 be true, yes.</p> <p>12 Q. You hesitated there for a second. Is -- is</p> <p>13 there a reason? Is there some that you're unsure</p> <p>14 about now?</p> <p>15 A. No.</p> <p>16 Q. Okay. So as part of your duties as the</p> <p>17 chief operating officer, you listed several different</p> <p>18 things. But -- but one of them that's particularly</p> <p>19 important here is, as I understand it, you're</p> <p>20 responsible for managing 777 litigation, correct?</p> <p>21 A. (Perusing.)</p> <p>22 Q. May I ask what you're looking at?</p> <p>23 A. I'm looking at the declaration.</p> <p>24 Q. Okay. Exhibit 1.</p> <p>25 If you could -- if you're going to refer to</p>              | <p style="text-align: right;">Page 168</p> <p>1 BY MR. MORLAN:</p> <p>2 Q. Mr. Shapiro, have you had an opportunity to</p> <p>3 review the -- your declaration in the New York</p> <p>4 litigation?</p> <p>5 A. I did. It -- it's not -- what I was looking</p> <p>6 for isn't in there. But it's okay. Could you repeat</p> <p>7 the question?</p> <p>8 Q. Yes.</p> <p>9 My -- my question is: What is your role</p> <p>10 with respect to managing litigation for 777?</p> <p>11 A. Both Ian Ratner and myself, one of our</p> <p>12 duties is to manage the litigation and trying to</p> <p>13 resolve the litigation conflicts wherever we can.</p> <p>14 Q. And when you say "litigation conflicts,"</p> <p>15 what do you mean by conflicts there?</p> <p>16 A. Well, there's a lot of conflicts in the</p> <p>17 litigation. Maybe it's -- it's redundant, you know,</p> <p>18 superfluous words. But there's a lot of litigation, a</p> <p>19 lot of matters, and we're trying to resolve wherever</p> <p>20 we can.</p> <p>21 Q. And one of the lawsuits that you're trying</p> <p>22 to resolve is the one that we're here on today,</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. And another one that you're trying to</p>                                                                                                                 |
| <p style="text-align: right;">Page 167</p> <p>1 a document, please let me know.</p> <p>2 A. (Perusing.)</p> <p>3 Q. We can go off the record if you need some</p> <p>4 time to review that declaration.</p> <p>5 A. No, I'm just looking for the language. I'm</p> <p>6 looking for the language on -- on what we're doing</p> <p>7 with the litigation. I want to make sure that I'm --</p> <p>8 I'm reading it correctly.</p> <p>9 Q. So you don't know without reference to a</p> <p>10 document what your role is with respect to 777</p> <p>11 litigation?</p> <p>12 A. Yes, I do. But I'm in a deposition and I</p> <p>13 want to make sure I represent it accurately and don't</p> <p>14 contradict anything that's in a declaration.</p> <p>15 Q. Okay. Well, we'll go off the record while</p> <p>16 you read that. And you can just let the court</p> <p>17 reporter know when you're ready.</p> <p>18 A. Okay.</p> <p>19 THE VIDEOGRAPHER: Going off the record.</p> <p>20 The time is 3:34.</p> <p>21 (A recess was taken.)</p> <p>22 THE VIDEOGRAPHER: Okay. We're back on the</p> <p>23 record. The time is 3:37.</p> <p>24 THE WITNESS: Could -- could -- could you</p> <p>25 repeat the question?</p> | <p style="text-align: right;">Page 169</p> <p>1 resolve is what we're referring to as the New York</p> <p>2 litigation between Leadenhall, 777, 777's principals,</p> <p>3 and others; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. And how does your -- the fiduciary duties</p> <p>6 that you have that you talked about earlier, how did</p> <p>7 those inform and affect your role with respect to</p> <p>8 managing litigation in your role as the COO for 777?</p> <p>9 MR. PELLEGRINO: Objection to form.</p> <p>10 THE WITNESS: I think like any decision,</p> <p>11 it's you're a fiduciary. You have business</p> <p>12 judgment. You have to listen to your counsel,</p> <p>13 assess the -- the claims, and -- and determine --</p> <p>14 make a determination whether it makes sense to go</p> <p>15 forward or not.</p> <p>16 BY MR. MORLAN:</p> <p>17 Q. And what does it mean to you when you say</p> <p>18 you need to exercise business judgment?</p> <p>19 A. Well, there's costs of litigations.</p> <p>20 There's -- there's potential claims in litigation.</p> <p>21 You have to assess risk. You know, ultimately much of</p> <p>22 this is a business decision.</p> <p>23 Q. And when you say it's "a business decision,"</p> <p>24 do you mean it comes down to a -- largely a dollars</p> <p>25 and cents cost benefit analysis?</p> |

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| <p style="text-align: right;">Page 170</p> <p>1 A. That's part of it, yes.</p> <p>2 <b>Q. Besides the litigation that we're here on</b></p> <p>3 <b>today, has 777 or Suttonpark brought any other</b></p> <p>4 <b>lawsuits during the time that you've been an officer?</b></p> <p>5 A. I'm aware of other law enforcements where</p> <p>6 we're plaintiffs, but I don't know whether -- I can't</p> <p>7 recall whether they were brought -- I think they were</p> <p>8 all brought before we were in as opposed to after.</p> <p>9 <b>Q. Approximately how many lawsuits are you</b></p> <p>10 <b>managing where 777 and/or Suttonpark or their</b></p> <p>11 <b>affiliates as a plaintiff?</b></p> <p>12 A. I don't -- I don't have a total. It's</p> <p>13 not -- not a lot. It's single digits. I just don't</p> <p>14 know a total.</p> <p>15 <b>Q. Are there any other lawsuits where 777 and</b></p> <p>16 <b>Suttonpark are suing their lender?</b></p> <p>17 A. I don't believe so. There may be, but I --</p> <p>18 I -- I don't know of any.</p> <p>19 <b>Q. Okay. Are there any other lenders to 777 or</b></p> <p>20 <b>Suttonpark that are suing 777 or Suttonpark?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. And is one of those plaintiffs Obra?</b></p> <p>23 A. I've heard that name before in this</p> <p>24 deposition. I'm not aware of Obra.</p> <p>25 <b>Q. Okay. So you're not familiar with any</b></p> | <p style="text-align: right;">Page 172</p> <p>1 there. That's an important one. But there are other</p> <p>2 cases, smaller cases that are -- constantly have</p> <p>3 deadlines, either monies due for arbitration or</p> <p>4 deadlines coming up that we have to show for. So it's</p> <p>5 quite -- quite a few of -- maybe not as large as</p> <p>6 Leadenhall, but cases. And I can't -- I can't say</p> <p>7 right now which ones they are, but there -- there's --</p> <p>8 they're -- they're constant. There's a lot of</p> <p>9 litigation here.</p> <p>10 <b>Q. For purposes of your cost benefit assessment</b></p> <p>11 <b>in managing the New York litigation, have you</b></p> <p>12 <b>accessed -- I'm sorry, have you assessed the potential</b></p> <p>13 <b>exposure of 777 and Suttonpark?</b></p> <p>14 A. How do you mean?</p> <p>15 <b>Q. Do you not understand what I mean when I ask</b></p> <p>16 <b>if you've assessed the company's exposure in</b></p> <p>17 <b>litigation?</b></p> <p>18 A. Well, I know what exposure in litigation</p> <p>19 means. But which specifically -- how do you mean it</p> <p>20 with -- relating to -- is that the New York matter</p> <p>21 you're talking about?</p> <p>22 <b>Q. Yes, I'm -- I'm -- I'm asking you: Have you</b></p> <p>23 <b>assessed the potential exposure of 777 and Suttonpark</b></p> <p>24 <b>in the New York litigation?</b></p> <p>25 A. Well, the exposure, Leadenhall's complaint</p> |
| <p style="text-align: right;">Page 171</p> <p>1 <b>litigation between Obra and 777?</b></p> <p>2 A. I am not.</p> <p>3 <b>Q. And in fairness to you, it sounds like you</b></p> <p>4 <b>have more responsibilities than just monitoring the</b></p> <p>5 <b>litigation, correct?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. And as part of exercising your business</b></p> <p>8 <b>judgment, you have to constantly set priorities; is</b></p> <p>9 <b>that right?</b></p> <p>10 A. Correct, yes.</p> <p>11 <b>Q. Would you say that's an important part of</b></p> <p>12 <b>your job as the chief operating officer for 777 and</b></p> <p>13 <b>Suttonpark?</b></p> <p>14 A. It's a part of it. I don't know if it's</p> <p>15 most important, but it's -- it's important.</p> <p>16 <b>Q. So you would agree that it is -- that --</b></p> <p>17 <b>that setting priorities is an important part of your</b></p> <p>18 <b>job? Not necessarily the most important, but it is an</b></p> <p>19 <b>important part of your job?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Okay. What litigation, if any, is among the</b></p> <p>22 <b>highest priority cases that you're managing right now</b></p> <p>23 <b>for 777 and Suttonpark?</b></p> <p>24 A. Wow. It's a difficult question. Well, the</p> <p>25 Leadenhall litigation in New York is -- is always out</p>                                                                     | <p style="text-align: right;">Page 173</p> <p>1 is for 600-plus million.</p> <p>2 <b>Q. Okay. And what does it mean to you in terms</b></p> <p>3 <b>of assessing exposure? How do you go about assessing</b></p> <p>4 <b>exposure in a lawsuit?</b></p> <p>5 A. Well, much of it has to do with working with</p> <p>6 counsel and trying to get their assessment of risk</p> <p>7 and -- and possibilities of outcome. I think it's a</p> <p>8 little bit too early in this -- this stage for real</p> <p>9 risk assessment on -- on Leadenhall right now on the</p> <p>10 New York matter.</p> <p>11 <b>Q. But their claim, I believe you testified to,</b></p> <p>12 <b>is for \$600 million?</b></p> <p>13 A. That's their claim, yes. More than</p> <p>14 \$600 million.</p> <p>15 <b>Q. Whose claim?</b></p> <p>16 A. Leadenhall's.</p> <p>17 <b>Q. Oh, that's not my claim. I just want to be</b></p> <p>18 <b>clear on that. I represent Saiph and Kosinski.</b></p> <p>19 A. No, we're talk- -- I -- wait. Now -- now</p> <p>20 I'm real confused. Sorry, let's backtrack for a</p> <p>21 second. I thought you were talking about the New York</p> <p>22 matter.</p> <p>23 <b>Q. I am talking about the New York matter. I'm</b></p> <p>24 <b>asking you about the New York matter.</b></p> <p>25 A. Okay. In the New York matter, Leadenhall's</p>                                                                                                                    |

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| <p style="text-align: right;">Page 174</p> <p>1 claim against the 777 parties and the individuals is</p> <p>2 more than \$600 million.</p> <p>3 <b>Q. And does their claim include any potential</b></p> <p>4 <b>treble damages based on what their allegations are?</b></p> <p>5 A. Right. There's RICO claims in there, yes.</p> <p>6 <b>Q. Okay. So does that \$600 million exposure</b></p> <p>7 <b>you stated earlier, did it -- does that include the</b></p> <p>8 <b>treble damages or is that before the treble damages?</b></p> <p>9 A. It's -- it's before the treble damages.</p> <p>10 <b>Q. Okay. So if they're alleging 600 million in</b></p> <p>11 <b>actual damages and they're alleging treble damages,</b></p> <p>12 <b>would it be Saiph to say that the exposure then is</b></p> <p>13 <b>\$1.8 billion?</b></p> <p>14 A. If you assume that the RICO claims are</p> <p>15 legitimate, yes, it would be \$1.8 million --</p> <p>16 1.8 billion.</p> <p>17 <b>Q. Okay. Do you have a view as you sit here</b></p> <p>18 <b>today as to whether or not the RICO claims have any</b></p> <p>19 <b>merit?</b></p> <p>20 MR. PELLEGRINO: Objection to form.</p> <p>21 THE WITNESS: Our counsel has a view, and</p> <p>22 I'm not sure I can talk about our counsel's views.</p> <p>23 BY MR. MORLAN:</p> <p>24 <b>Q. I'm not asking about your counsel's views.</b></p> <p>25 <b>I'm asking about your views as the chief operating</b></p> | <p style="text-align: right;">Page 176</p> <p>1 <b>Q. I'm asking your view.</b></p> <p>2 A. I don't believe they're legitimate.</p> <p>3 <b>Q. Okay. And what is that based on?</b></p> <p>4 A. Based on discussions with my counsel.</p> <p>5 <b>Q. Okay. And do you have any independent</b></p> <p>6 <b>factual basis or specific pieces of evidence that</b></p> <p>7 <b>you've considered in forming the opinion that those</b></p> <p>8 <b>allegations do not have merit?</b></p> <p>9 MR. PELLEGRINO: Other than the sum and</p> <p>10 substance of what you've discussed with counsel.</p> <p>11 MR. MORLAN: I'm asking him what his views</p> <p>12 are.</p> <p>13 THE WITNESS: Nothing other than what I've</p> <p>14 discussed with counsel.</p> <p>15 BY MR. MORLAN:</p> <p>16 <b>Q. Okay. So to the extent that you learned</b></p> <p>17 <b>about a -- a fact or a piece of evidence that is</b></p> <p>18 <b>relevant to your view and you learned that from</b></p> <p>19 <b>counsel, you think that you don't have to testify as</b></p> <p>20 <b>to that?</b></p> <p>21 A. I don't have any --</p> <p>22 <b>Q. Is that what you're saying?</b></p> <p>23 A. I don't have any other facts other than what</p> <p>24 I've discussed with counsel.</p> <p>25 <b>Q. Okay. So my question is, just to be clear:</b></p>                                            |
| <p style="text-align: right;">Page 175</p> <p>1 <b>officer and a manager of the litigation on what you've</b></p> <p>2 <b>identified as one of the most significant pieces of</b></p> <p>3 <b>litigation that you're managing that has \$1.8 billion</b></p> <p>4 <b>in potential exposure that you've acknowledged.</b></p> <p>5 MR. PELLEGRINO: Objection to form.</p> <p>6 BY MR. MORLAN:</p> <p>7 <b>Q. So what is your view as to the merits or</b></p> <p>8 <b>non-merits of the RICO claim in the New York</b></p> <p>9 <b>litigation?</b></p> <p>10 MR. PELLEGRINO: Objection to form.</p> <p>11 THE WITNESS: I'm not an attorney. And on</p> <p>12 that particular issue, I'm taking the advice of</p> <p>13 counsel.</p> <p>14 MR. MORLAN: Okay. Move to strike,</p> <p>15 nonresponsive.</p> <p>16 BY MR. MORLAN:</p> <p>17 <b>Q. My question is: What is your view as to the</b></p> <p>18 <b>merits of the RICO claim in that case?</b></p> <p>19 MR. PELLEGRINO: Objection to form.</p> <p>20 THE WITNESS: I thought I -- I'm -- I</p> <p>21 thought any conversations with my -- my counsel</p> <p>22 are privileged.</p> <p>23 MR. PELLEGRINO: They are. And he's not</p> <p>24 asking for any --</p> <p>25 BY MR. MORLAN:</p>                                                                                                                                                                                                              | <p style="text-align: right;">Page 177</p> <p>1 <b>What facts do you rely upon in exercising your</b></p> <p>2 <b>independent professional judgment and overseeing this</b></p> <p>3 <b>litigation to conclude that the RICO allegations do</b></p> <p>4 <b>not have merit? I'm not asking for legal arguments.</b></p> <p>5 <b>I'm just asking for facts.</b></p> <p>6 A. I'm not an attorney. I don't have any other</p> <p>7 facts other than what I've discussed with my counsel.</p> <p>8 <b>Q. Okay.</b></p> <p>9 MR. MORLAN: Are you instructing the witness</p> <p>10 not to answer the question as to what facts that</p> <p>11 he relies upon for that conclusion? Are you</p> <p>12 asserting that that's privileged, Mr. Pellegrino?</p> <p>13 MR. PELLEGRINO: No. He just answered the</p> <p>14 question.</p> <p>15 MR. MORLAN: Well, no. He refused to answer</p> <p>16 the question. He -- he basically invoked</p> <p>17 privilege himself.</p> <p>18 MR. PELLEGRINO: I believe that's his right.</p> <p>19 MR. MORLAN: Okay. So just to be clear</p> <p>20 then, you are not instructing the witness not to</p> <p>21 answer my question; is that correct?</p> <p>22 MR. PELLEGRINO: That's correct.</p> <p>23 BY MR. MORLAN:</p> <p>24 <b>Q. Okay. So, Mr. Shapiro, are you refusing to</b></p> <p>25 <b>answer my question on grounds of privilege?</b></p> |

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| <p style="text-align: right;">Page 178</p> <p>1 A. No. I've responded to your question. I<br/>2 don't have any other facts other than what I've talked<br/>3 about with my counsel. There are no other facts.<br/>4 <b>Q. That's not privileged. That's not</b><br/>5 <b>privileged and he's not instructing you not to answer.</b><br/>6 <b>So I'm going to ask you again one last time and you</b><br/>7 <b>either state the facts or you refuse to answer. But</b><br/>8 <b>if you refuse to answer, we're going to go before the</b><br/>9 <b>court and we're going to have to come back and do this</b><br/>10 <b>again and you're going to have to answer the question.</b><br/>11 <b>So -- but it's totally up to you.</b><br/>12 <b>So what facts have you relied upon in</b><br/>13 <b>forming your conclusion that the RICO allegations in</b><br/>14 <b>the New York matter lack merit?</b><br/>15 MR. PELLEGRINO: Objection to form.<br/>16 THE WITNESS: I'll say it again. I don't<br/>17 have any other facts other than what I've told you<br/>18 and what I've discussed with my counsel.<br/>19 BY MR. MORLAN:<br/>20 <b>Q. So you have told me all of the facts or not?</b><br/>21 A. I don't have any other facts.<br/>22 <b>Q. You haven't told me any facts as to why</b><br/>23 <b>you've concluded the allegations in the New York</b><br/>24 <b>action lack merit.</b><br/>25 A. Do we have -- do you have the New York</p>                                                           | <p style="text-align: right;">Page 180</p> <p>1 MR. PELLEGRINO: You're -- you're asking him<br/>2 for a legal conclusion where he --<br/>3 MR. MORLAN: No, I'm not.<br/>4 MR. PELLEGRINO: Well, he's --<br/>5 MR. MORLAN: That's -- thank you.<br/>6 MR. PELLEGRINO: He's not a lawyer.<br/>7 BY MR. MORLAN:<br/>8 <b>Q. Did you understand my question?</b><br/>9 A. No, I did not.<br/>10 <b>Q. Okay. I believe you just told me that the</b><br/>11 <b>facts that you're relying on are in the objection to</b><br/>12 <b>the complaint; is that correct?</b><br/>13 A. The response to the complaint. Is it called<br/>14 the response to the complaint or the -- our response<br/>15 to the Leadenhall complaint. The defendants' response<br/>16 has --<br/>17 <b>Q. Do you mean the -- the answer and</b><br/>18 <b>affirmative defenses?</b><br/>19 A. I -- I -- if that's what it's called, yes.<br/>20 And I believe there are responses that address the<br/>21 RICO claims. If I could look -- look at that<br/>22 document. Is that available?<br/>23 <b>Q. Okay. And so you can't think of any facts</b><br/>24 <b>that support your conclusion as to the RICO</b><br/>25 <b>allegations without reference to an external document;</b></p> |
| <p style="text-align: right;">Page 179</p> <p>1 complaint?<br/>2 <b>Q. I -- I'm -- I'm asking you what facts you're</b><br/>3 <b>relying on. So you don't know as you sit here today?</b><br/>4 A. I would like to look at our objection to the<br/>5 New York complaint. Is that document available?<br/>6 <b>Q. Okay. You may get to do that in a minute,</b><br/>7 <b>but right now I'm asking you what you know now without</b><br/>8 <b>looking at the complaint. You said you knew it lacked</b><br/>9 <b>information. You said you had facts that was based</b><br/>10 <b>on. You refused to answer for a while. And then when</b><br/>11 <b>pressed on it you've said now that you don't know. So</b><br/>12 <b>if you don't know, you don't know. But if you know</b><br/>13 <b>and you have some facts that you've relied on, I would</b><br/>14 <b>like to know what those are. And then if you want to</b><br/>15 <b>look at the complaint afterwards, that's fine. But</b><br/>16 <b>you told me that it lacked merit and you were basing</b><br/>17 <b>that on facts and I would like for you to testify as</b><br/>18 <b>to what those facts are.</b><br/>19 A. The facts are what's listed in the re- --<br/>20 the objection to the complaint in New York. That's<br/>21 what I'm relying upon.<br/>22 <b>Q. The objection? What is the objection to the</b><br/>23 <b>case in New York?</b><br/>24 MR. PELLEGRINO: Objection to form.<br/>25 MR. MORLAN: What's your objection to form?</p> | <p style="text-align: right;">Page 181</p> <p>1 <b>is that correct?</b><br/>2 A. I'd like to look at the document.<br/>3 <b>Q. Okay.</b><br/>4 MR. STARR: Just to --<br/>5 BY MR. MORLAN:<br/>6 <b>Q. Would you like me to repeat the question</b><br/>7 <b>or -- I understand that you'd like to -- to look at</b><br/>8 <b>the document. But I'm asking you right now, without</b><br/>9 <b>the document, are there any facts that you can give me</b><br/>10 <b>that support your conclusion that the RICO claim lacks</b><br/>11 <b>merit?</b><br/>12 MR. PELLEGRINO: Objection.<br/>13 BY MR. MORLAN:<br/>14 <b>Q. It's a yes or no question. It's real easy.</b><br/>15 MR. PELLEGRINO: Objection to form. And,<br/>16 Hal, you're harassing --<br/>17 MR. MORLAN: Stop. Stop. Stop with the<br/>18 speaking objections. I'm not harassing him.<br/>19 I'm --<br/>20 MR. PELLEGRINO: You are harassing. Your<br/>21 voice is raised and you're harassing him. Just --<br/>22 just please --<br/>23 MR. MORLAN: I'm not. I'm not harassing<br/>24 him.<br/>25 MR. PELLEGRINO: Just please be</p>                                                                                                                                                     |

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| <p style="text-align: right;">Page 182</p> <p>1 professional.</p> <p>2 MR. MORLAN: David, if you tell me I'm</p> <p>3 harassing the witness again, we're going to stop</p> <p>4 the deposition and we're going to seek relief from</p> <p>5 the court --</p> <p>6 MR. PELLEGRINO: Okay.</p> <p>7 MR. MORLAN: -- because I take that very</p> <p>8 seriously --</p> <p>9 MR. PELLEGRINO: You are harassing the</p> <p>10 witness.</p> <p>11 MR. MORLAN: -- and I'm not harassing the</p> <p>12 witness. No.</p> <p>13 MR. PELLEGRINO: You're voice is raised.</p> <p>14 MR. MORLAN: Well, we're not going to argue</p> <p>15 about it. Because, David, either --</p> <p>16 MR. PELLEGRINO: You are -- you are arguing</p> <p>17 about it.</p> <p>18 MR. MORLAN: -- because I'm harassing him or</p> <p>19 stop doing speaking objections in my deposition.</p> <p>20 MR. PELLEGRINO: I'm not doing speaking</p> <p>21 objections.</p> <p>22 MR. MORLAN: You heard the judge on it.</p> <p>23 We're going to bring this in front of him if you</p> <p>24 keep doing it. I have a right --</p> <p>25 MR. PELLEGRINO: Yeah, the issue will be</p>                                                                                                                                         | <p style="text-align: right;">Page 184</p> <p>1 <b>Q. Did you produce any documents in advance of</b></p> <p>2 <b>your deposition today?</b></p> <p>3 A. No.</p> <p>4 <b>Q. Okay. Did your counsel produce any</b></p> <p>5 <b>documents in advance of your deposition today?</b></p> <p>6 A. I believe some documents were produced this</p> <p>7 morning. I think there were some e-mails.</p> <p>8 <b>Q. When you say "this morning," when do you</b></p> <p>9 <b>mean?</b></p> <p>10 A. Like early this morning, like 1:00 a.m. this</p> <p>11 morning.</p> <p>12 <b>Q. Oh, okay. So you're talking about the --</b></p> <p>13 <b>the production that was made at approximately</b></p> <p>14 <b>1 o'clock in the morning Eastern time in advance of</b></p> <p>15 <b>this deposition?</b></p> <p>16 A. That's the only production I know was made.</p> <p>17 <b>Q. And so you understand that myself and the</b></p> <p>18 <b>other lawyers have only theoretically had access to</b></p> <p>19 <b>those documents from the time that we were able to</b></p> <p>20 <b>download and process them, starting with receipt of</b></p> <p>21 <b>notification at approximately 1 o'clock in the</b></p> <p>22 <b>morning?</b></p> <p>23 MR. PELLEGRINO: Objection to form.</p> <p>24 THE WITNESS: I understand that.</p> <p>25 BY MR. MORLAN:</p>                                                                                             |
| <p style="text-align: right;">Page 183</p> <p>1 your harassment, not -- not my objections.</p> <p>2 MR. MORLAN: Okay. Thank you.</p> <p>3 BY MR. MORLAN:</p> <p>4 <b>Q. So, Mr. Ratner [sic], are there any facts</b></p> <p>5 <b>that you can give me that support your statement that</b></p> <p>6 <b>the RICO allegations lack merit? Are there any that</b></p> <p>7 <b>you can give me right now without reference to another</b></p> <p>8 <b>document?</b></p> <p>9 MR. PELLEGRINO: Objection to form.</p> <p>10 THE WITNESS: Without referencing the other</p> <p>11 document, no. I want to look at the document and</p> <p>12 I'll -- I'll tell you what -- what -- what I'm</p> <p>13 relying upon.</p> <p>14 BY MR. MORLAN:</p> <p>15 <b>Q. Okay. Thank you.</b></p> <p>16 <b>And the document that you're referring to,</b></p> <p>17 <b>you believe is the answer and affirmative defenses?</b></p> <p>18 MR. STARR: Can I just interject that</p> <p>19 there's been no answer filed. There's been a</p> <p>20 motion to dismiss filed.</p> <p>21 BY MR. MORLAN:</p> <p>22 <b>Q. Did you bring with you the motion to</b></p> <p>23 <b>dismiss? Do you have a copy of that, Mr. Shapiro?</b></p> <p>24 A. I do not. I didn't bring any documents with</p> <p>25 me.</p> | <p style="text-align: right;">Page 185</p> <p>1 <b>Q. Okay. And do you think that's a reasonable</b></p> <p>2 <b>amount of time for us to digest and understand those</b></p> <p>3 <b>documents?</b></p> <p>4 MR. PELLEGRINO: Objection to form.</p> <p>5 THE WITNESS: No, I don't. I -- I --</p> <p>6 BY MR. MORLAN:</p> <p>7 <b>Q. Thank you for your candor.</b></p> <p>8 <b>So we talked about -- and I don't want to</b></p> <p>9 <b>belabor it, but I want to talk briefly about what you</b></p> <p>10 <b>knew when you decided or participated in the decision</b></p> <p>11 <b>to go forward with this litigation, that's -- that's</b></p> <p>12 <b>one issue. And I believe you said that you were</b></p> <p>13 <b>involved in that decision along with a group of</b></p> <p>14 <b>people, correct?</b></p> <p>15 A. Correct.</p> <p>16 <b>Q. And is that the -- the group that you had</b></p> <p>17 <b>said before? I just want to make sure this is the</b></p> <p>18 <b>right group for the right decision. I think you said</b></p> <p>19 <b>it was Chris O'Reilly, Mollie Wander, Josh Walder</b></p> <p>20 <b>[sic], Shawn Taheri, and Jim Howard?</b></p> <p>21 A. It would be Jon Walder, Ian Ratner.</p> <p>22 <b>Q. I forgot Ratner, Mr. Ratner. Okay.</b></p> <p>23 <b>How do spell -- is it W-A-L-D-E-R? Is that</b></p> <p>24 <b>Mr. Jon Walder's last name or is it --</b></p> <p>25 A. Yes. Yes. Yes, it is.</p> |

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| <p style="text-align: right;">Page 186</p> <p><b>1 Q. Okay. What about Josh Wander, did he share</b><br/> <b>2 any views as to any of the facts or allegations</b><br/> <b>3 alleged in the complaint in this case?</b><br/> <b>4 A.</b> When it came time to whether or not to file,<br/> <b>5</b> no, did not.<br/> <b>6 Q. Okay. When has Mr. Wander expressed to you</b><br/> <b>7 any views on the allegations or underlying factual</b><br/> <b>8 basis in this lawsuit?</b><br/> <b>9 A.</b> I don't know when he did. I -- I think I<br/> <b>10</b> mentioned before that he was absolutely against<br/> <b>11</b> letting Saiph and Paul do the collateral audit for<br/> <b>12</b> fear that they were going to be looking at data they<br/> <b>13</b> weren't otherwise entitled to for a traditional<br/> <b>14</b> collateral audit. That was -- he and others were very<br/> <b>15</b> vocal upfront. I don't believe he was involved in any<br/> <b>16</b> of the decisions when it came to filing suit or not<br/> <b>17</b> filing suit.<br/> <b>18 Q. So when you say "he and others," the "he"</b><br/> <b>19 there you were referring to Josh Wander, correct?</b><br/> <b>20 A.</b> Correct.<br/> <b>21 Q. Okay. And who are the others to whom you</b><br/> <b>22 refer?</b><br/> <b>23 A.</b> Again, I testified before. I want to make<br/> <b>24</b> sure I don't contradict it. I believe the group was<br/> <b>25</b> Chris O'Reilly -- Chris O'Reilly, Jon Walder, Mollie</p>                                         | <p style="text-align: right;">Page 188</p> <p><b>1</b> Saiph is the one that they want to use, then we're<br/> <b>2</b> going to use them. So it was just Jim Howard and<br/> <b>3</b> myself who overrode everybody.<br/> <b>4 Q. And that was because Leadenhall had a</b><br/> <b>5 contractual right to review data regarding its -- its</b><br/> <b>6 collateral; is that correct?</b><br/> <b>7 A.</b> Correct.<br/> <b>8 Q. Okay. And that -- that data was contained</b><br/> <b>9 within the MPFin system, correct?</b><br/> <b>10 MR. PELLEGRINO:</b> Objection to form.<br/> <b>11 THE WITNESS:</b> Yeah, could you repeat that?<br/> <b>12 BY MR. MORLAN:</b><br/> <b>13 Q. Sure.</b><br/> <b>14 The data regarding the Leadenhall</b><br/> <b>15 collateral, that is generally and supposed to be kept</b><br/> <b>16 within the MPFin database; is that right?</b><br/> <b>17 MR. PELLEGRINO:</b> Objection to form.<br/> <b>18 THE WITNESS:</b> I believe so. I think there<br/> <b>19</b> may be paper files as well, but yes.<br/> <b>20 BY MR. MORLAN:</b><br/> <b>21 Q. But the MPFin database is not just limited</b><br/> <b>22 to information about Leadenhall, correct?</b><br/> <b>23 A.</b> Correct.<br/> <b>24 Q. Okay. But there's nothing in the MPFin</b><br/> <b>25 database about Leadenhall's collateral that they</b></p>                                                                                                           |
| <p style="text-align: right;">Page 187</p> <p><b>1</b> Wander, JC Mendoza, Shawn Taheri, Josh Wander, Steve<br/> <b>2</b> Pasko. I think I got everybody.<br/> <b>3 Q. And what were Mr. Wander's concerns with</b><br/> <b>4 respect to Paul Kosinski and Saiph having access to</b><br/> <b>5 any 777 or Suttonpark data?</b><br/> <b>6 A.</b> He -- they all thought that it was a bad<br/> <b>7</b> idea, that Paul would be looking at all sorts of<br/> <b>8</b> things throughout the system other than what<br/> <b>9</b> Leadenhall was legally entitled to in a collateral<br/> <b>10</b> audit. They had history. You know, none of us at B.<br/> <b>11</b> Riley had any history with Paul Kosinski. We didn't<br/> <b>12</b> know about Noah Davis at the time, but there -- there<br/> <b>13</b> obviously was history and they didn't -- they didn't<br/> <b>14</b> want them in the systems.<br/> <b>15 Q. And what did they tell you about the</b><br/> <b>16 history?</b><br/> <b>17 A.</b> I -- none. Just can't -- can't -- can't be<br/> <b>18</b> trusted. He's going to do stuff. You're asking for<br/> <b>19</b> trouble.<br/> <b>20 Q. And did you make any further inquiry?</b><br/> <b>21 A.</b> No, because Jim Howard and I ultimately<br/> <b>22</b> overrode everybody. We -- we took the position that<br/> <b>23</b> this is a collateral audit, that we should have the<br/> <b>24</b> controls in place to be able to protect data, that<br/> <b>25</b> Leadenhall is entitled to the information, and if</p> | <p style="text-align: right;">Page 189</p> <p><b>1 wouldn't be allowed to access, correct?</b><br/> <b>2 MR. PELLEGRINO:</b> Objection, form.<br/> <b>3 THE WITNESS:</b> I don't -- I don't know that.<br/> <b>4</b> I -- I assume there was data out there that they<br/> <b>5</b> didn't want. I -- I -- I don't know. I just -- I<br/> <b>6</b> don't know what's in the database. I think you'd<br/> <b>7</b> have to talk to either Shawn Taheri and probably<br/> <b>8</b> others to -- to understand what's in that<br/> <b>9</b> database.<br/> <b>10 BY MR. MORLAN:</b><br/> <b>11 Q. But you were the one who made the decision</b><br/> <b>12 to allow Leadenhall to access that database?</b><br/> <b>13 MR. PELLEGRINO:</b> Objection to form.<br/> <b>14 THE WITNESS:</b> Yes. My -- our comments were<br/> <b>15</b> if there's data that they shouldn't see, then you<br/> <b>16</b> should have the security and ability to be able to<br/> <b>17</b> wall that off.<br/> <b>18 BY MR. MORLAN:</b><br/> <b>19 Q. And have you identified any evidence that</b><br/> <b>20 any person from Saiph, other than Noah Davis, accessed</b><br/> <b>21 any data that they weren't entitled to view?</b><br/> <b>22 A.</b> I mean, there were a couple of other user<br/> <b>23</b> logins used. I think everybody attributes all of<br/> <b>24</b> those to Noah Davis. But other than the ones<br/> <b>25</b> identified in the reports, no, I don't.</p> |

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| <p style="text-align: right;">Page 190</p> <p>1 <b>Q. Okay. So as you sit here today, you don't</b><br/> 2 <b>have any evidence that Mr. Kosinski went in using his</b><br/> 3 <b>credentials and asked for data that he wasn't entitled</b><br/> 4 <b>to; is that correct?</b><br/> 5 A. That's correct.<br/> 6 <b>Q. And the same question with respect to Lauren</b><br/> 7 <b>Boersig; is that correct?</b><br/> 8 A. I believe her -- her credentials were used<br/> 9 in one of the intrusions. But, again, I think they<br/> 10 attributed that to Noah Davis based on the location of<br/> 11 the -- the connection or -- I don't know the technical<br/> 12 term. But it was south Florida versus northeast.<br/> 13 <b>Q. Okay. And I think you also said that you've</b><br/> 14 <b>been relying on Mr. Mazur to provide you information</b><br/> 15 <b>that you've used in your decision making with respect</b><br/> 16 <b>to this case; is that correct?</b><br/> 17 A. Correct.<br/> 18 <b>Q. Okay. And have you had any occasion to</b><br/> 19 <b>disagree with any of Mr. Mazur's analysis or opinions?</b><br/> 20 A. No, I have not.<br/> 21 <b>Q. Okay. And would you disagree with</b><br/> 22 <b>Mr. Mazur's statement that there was no forensic</b><br/> 23 <b>evidence that any of the login credentials provided to</b><br/> 24 <b>Saiph were used to obtain or seek to obtain any</b><br/> 25 <b>unauthorized information?</b></p> | <p style="text-align: right;">Page 192</p> <p>1 question. I'm not trying to be difficult. I<br/> 2 don't think you finished that one. Could just<br/> 3 repeat that question?<br/> 4 BY MR. MORLAN:<br/> 5 <b>Q. Sure.</b><br/> 6 <b>Was there any evidence in Mr. Mazur's report</b><br/> 7 <b>or even his conclusions that Mr. Davis used Lauren</b><br/> 8 <b>Boersig's credentials to access or attempt to access</b><br/> 9 <b>data to which Leadenhall was not entitled?</b><br/> 10 A. Yes. He did say that he used Lauren<br/> 11 Boersig's credentials. I believe he did.<br/> 12 <b>Q. My question was not whether or not he</b><br/> 13 <b>attributed a login by Noah Davis using Lauren</b><br/> 14 <b>Boersig's credentials.</b><br/> 15 <b>My question was: As to the intrusion that</b><br/> 16 <b>he identified, was Mr. Mazur able to identify any</b><br/> 17 <b>access or attempted access to any unauthorized data</b><br/> 18 <b>via Davis's use of Boersig's credentials?</b><br/> 19 MR. PELLEGRINO: Objection to form.<br/> 20 THE WITNESS: I don't know. I -- I -- as we<br/> 21 sit here right now, I -- again, I'm not trying to<br/> 22 be difficult, but the report's not in front of me.<br/> 23 I don't know what he attributed to that<br/> 24 credential. There's quite a few intrusions.<br/> 25 BY MR. MORLAN:</p> |
| <p style="text-align: right;">Page 191</p> <p>1 MR. PELLEGRINO: Objection to form.<br/> 2 THE WITNESS: Yeah, I'm not sure. Is<br/> 3 that -- is that what Eric said? I -- I mean,<br/> 4 you're saying that. I don't know if that's what<br/> 5 Eric actually said. Is there a portion of the<br/> 6 report or is that direct quote? Is that a<br/> 7 paraphrase? I just don't know.<br/> 8 BY MR. MORLAN:<br/> 9 <b>Q. Well, are -- are you aware of any evidence</b><br/> 10 <b>or any statement from Mr. Mazur that stated that any</b><br/> 11 <b>of the specific intrusions and data that you talked</b><br/> 12 <b>about were tied to Saiph credentials as opposed to the</b><br/> 13 <b>credentials that Mr. Davis retained from his time at</b><br/> 14 <b>777?</b><br/> 15 MR. PELLEGRINO: Objection to form.<br/> 16 THE WITNESS: Only the one to Lauren, who<br/> 17 was a Saiph employee. But, again, he attributed<br/> 18 that to somebody else.<br/> 19 BY MR. MORLAN:<br/> 20 <b>Q. Okay. But was there any evidence in his</b><br/> 21 <b>report that stated that during that login, using those</b><br/> 22 <b>credentials, that -- that facilitated Mr. Davis's</b><br/> 23 <b>access across the rest of the system?</b><br/> 24 MR. PELLEGRINO: Objection to form.<br/> 25 THE WITNESS: I'm not sure you finished the</p>                                                                                                                  | <p style="text-align: right;">Page 193</p> <p>1 <b>Q. I understand.</b><br/> 2 <b>So looking at Mr. Mazur's report might</b><br/> 3 <b>refresh your recollection in that record; is that</b><br/> 4 <b>correct?</b><br/> 5 A. Yes.<br/> 6 <b>Q. Okay. So we may get to that in a little</b><br/> 7 <b>bit, but we have a limit amount of time here.</b><br/> 8 <b>Do you know whether Mr. Mazur's report</b><br/> 9 <b>identifies any specific forensic evidence linking Paul</b><br/> 10 <b>Kosinski to Noah Davis's alleged intrusions?</b><br/> 11 A. I haven't seen any.<br/> 12 <b>Q. Okay. Do you know whether Mr. Mazur has</b><br/> 13 <b>identified any evidence in any of his reports that</b><br/> 14 <b>links Leadenhall or Saiph to any of the intrusions</b><br/> 15 <b>other than the fact that Mr. Davis worked for them?</b><br/> 16 A. I haven't seen any.<br/> 17 <b>Q. And have you -- did you have an opportunity</b><br/> 18 <b>to speak with Mr. Mazur after his deposition was taken</b><br/> 19 <b>in this matter?</b><br/> 20 A. I did, but we didn't talk about his<br/> 21 deposition.<br/> 22 <b>Q. What did you talk about?</b><br/> 23 A. The September 2022 file, that's when I spoke<br/> 24 with him.<br/> 25 <b>Q. Okay. And -- and that was -- would that be</b></p>                                              |

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| <p style="text-align: right;">Page 194</p> <p>1 closer to 1 week or 6 months?</p> <p>2 A. 1 week.</p> <p>3 Q. 1 week?</p> <p>4 A. Yeah.</p> <p>5 Q. We're having some problems with the mic.</p> <p>6 A. 1 week.</p> <p>7 Q. Okay. There's a little bit of a delay.</p> <p>8 But all you recall about that conversation</p> <p>9 was that there was a reference somewhere to an MPFin</p> <p>10 file from 2022; is that correct?</p> <p>11 A. Yes. And he would have more details than I</p> <p>12 do.</p> <p>13 Q. I understand that.</p> <p>14 But -- but are there any other details,</p> <p>15 other than what I just said, that you have about this</p> <p>16 MPFin file from 2022 or do we need to rely on</p> <p>17 Mr. Mazur for that?</p> <p>18 A. I think you'd have to rely on Mr. Mazur for</p> <p>19 that.</p> <p>20 Q. Okay. Is there anyone else that has any</p> <p>21 special information about that MPFin 2022 file besides</p> <p>22 Mr. Mazur?</p> <p>23 A. I don't know.</p> <p>24 Q. Did you say you don't know?</p> <p>25 A. I don't know.</p>                                                                                                                | <p style="text-align: right;">Page 196</p> <p>1 easier for you to look at on your -- on the laptop.</p> <p>2 Whatever you would prefer.</p> <p>3 THE WITNESS: Do you have one?</p> <p>4 MR. STARR: (Hanging.)</p> <p>5 THE WITNESS: Do we have to -- exhibits?</p> <p>6 MR. STARR: Oh, yeah.</p> <p>7 Do you want to mark it? Might as well. We</p> <p>8 got stickers here.</p> <p>9 Actually, Hal --</p> <p>10 MR. MORLAN: If it's not marked, then I'm</p> <p>11 going to do it electronically. I thought it was</p> <p>12 already marked.</p> <p>13 MR. PELLEGRINO: It's not marked.</p> <p>14 MR. STARR: It is not marked.</p> <p>15 MR. MORLAN: Okay.</p> <p>16 MR. STARR: So why don't we introduce the</p> <p>17 exhibit, Hal, but he can look at the paper copy.</p> <p>18 MR. MORLAN: Got it. Okay.</p> <p>19 THE WITNESS: (Perusing.)</p> <p>20 MR. MORLAN: What number are we on?</p> <p>21 THE COURT REPORTER: 7.</p> <p>22 THE WITNESS: I have it.</p> <p>23 MR. MORLAN: Do you guys have file sharing</p> <p>24 in the group chat disabled?</p> <p>25 THE VIDEOGRAPHER: No, I don't think so.</p>                                                                                                                                                                                                       |
| <p style="text-align: right;">Page 195</p> <p>1 MR. MORLAN: I'm going to go off the record</p> <p>2 for a second. I may log off and log back in</p> <p>3 because there's a delay and I'm having trouble</p> <p>4 hearing your answers, so I'm going to first try</p> <p>5 something with the sound and see if that works.</p> <p>6 MR. PELLEGRINO: Hal, do you mind if we take</p> <p>7 a 10-minute break while you're doing that?</p> <p>8 MR. MORLAN: That's perfectly fine. Great</p> <p>9 idea.</p> <p>10 MR. PELLEGRINO: Thank you.</p> <p>11 THE VIDEOGRAPHER: Okay. Going off the</p> <p>12 record. The time is 4:12.</p> <p>13 (A recess was taken.)</p> <p>14 THE VIDEOGRAPHER: Okay. We're back on the</p> <p>15 record, and the time is now 4:54.</p> <p>16 BY MR. MORLAN:</p> <p>17 Q. Mr. Shapiro, do you have a copy of your</p> <p>18 declaration that was filed in this case handy or do</p> <p>19 you -- do you want me to share a copy with you over</p> <p>20 Zoom?</p> <p>21 A. Let me check (perusing).</p> <p>22 MR. STARR: If you don't have one, I think I</p> <p>23 do.</p> <p>24 BY MR. MORLAN:</p> <p>25 Q. I can also give you a digital one if it's</p> | <p style="text-align: right;">Page 197</p> <p>1 MR. MORLAN: Seems like it to me. Can</p> <p>2 anybody else stick a file in there?</p> <p>3 MR. STARR: Why don't we just --</p> <p>4 MR. MORLAN: Can we check the permissions.</p> <p>5 MR. STARR: Why don't we just mark the</p> <p>6 exhibit here manually so that it can be part of</p> <p>7 the transcript and scanned in and -- and, Hal, you</p> <p>8 can work off the digital copy.</p> <p>9 MR. MORLAN: All right. Well, we'll try to</p> <p>10 do that. But -- but I'm going to ask before we go</p> <p>11 back on maybe you guys could get your office to --</p> <p>12 to fix that or look into that because I may have</p> <p>13 some -- some other exhibits that we don't have</p> <p>14 paper copies of and I was under the impression</p> <p>15 that we were going to be able to introduce</p> <p>16 documents electronically. Is there some other</p> <p>17 method that's available besides the Zoom chat?</p> <p>18 MR. STARR: I believe we are on the record,</p> <p>19 by the way.</p> <p>20 MR. MORLAN: Oh. Well, let's go off the</p> <p>21 record and -- and let's strike that part of it</p> <p>22 because I don't think we...</p> <p>23 THE VIDEOGRAPHER: Going off the record.</p> <p>24 The time is 4:57.</p> <p>25 (A recess was taken.)</p> |

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| <p style="text-align: right;">Page 198</p> <p>1 (Shapiro Exhibit 7 was marked for<br/>2 identification.)<br/>3 THE VIDEOGRAPHER: Okay. We're back on the<br/>4 record again. It's 5:10.<br/>5 BY MR. MORLAN:<br/>6 <b>Q. Mr. Shapiro, with respect to the fiduciary<br/>7 duties that you testified to earlier and your role as<br/>8 the COO of 777 and Suttonpark, what's your<br/>9 understanding of your responsibilities as it relates<br/>10 to cyber security?</b><br/>11 MR. PELLEGRINO: Object to form.<br/>12 THE WITNESS: You know, I -- I would<br/>13 think -- I wouldn't call it fiduciary duty. Part<br/>14 of my management role is to try and maintain cyber<br/>15 security. I mean, I don't -- that's kind of a<br/>16 necessary evil nowadays.<br/>17 BY MR. MORLAN:<br/>18 <b>Q. And what are the steps that you take to<br/>19 fulfill that duty with respect to cyber security?</b><br/>20 A. Oh, I -- I wouldn't do anything personally.<br/>21 That's really the head of IT who'd normally be<br/>22 monitoring the cyber security and taking care of that.<br/>23 <b>Q. And is that person Shawn Taheri?</b><br/>24 A. Yes.<br/>25 <b>Q. And you have oversight responsibility as COO</b></p>                                                          | <p style="text-align: right;">Page 200</p> <p>1 person. She's -- she's --<br/>2 <b>Q. Okay. And I believe you testified earlier<br/>3 that Mr. Mazur and Mr. Taheri were the ones conducting<br/>4 the investigation for the companies as to the<br/>5 intrusions; is that correct?</b><br/>6 A. Correct.<br/>7 <b>Q. Okay. And you mentioned Ms. Licamora.<br/>8 Is -- is that because she has special responsibility<br/>9 for data or does she have an oversight role or -- or<br/>10 what's her role in this?</b><br/>11 A. She has an oversight role on the operations<br/>12 of Suttonpark at that point.<br/>13 <b>Q. Okay.</b><br/>14 A. She's sort of filling in where Jim Howard<br/>15 was -- was -- was working over Suttonpark.<br/>16 <b>Q. Okay. Would it be fair to say that the<br/>17 MPFin system is an important system that is essential<br/>18 for the operations of Suttonpark?</b><br/>19 A. That's how it's been -- it's been<br/>20 represented to me that way, yes.<br/>21 <b>Q. Okay. But that's your understanding as the<br/>22 COO of the company?</b><br/>23 A. Yes.<br/>24 <b>Q. Okay. And as you sit here today, are you<br/>25 aware of any problems with the integrity of the data</b></p>                                                                                                                                                        |
| <p style="text-align: right;">Page 199</p> <p>1 <b>for Mr. Taheri; is that correct?</b><br/>2 A. He was reporting to JC Mendoza, who reported<br/>3 to me. But over -- over -- ultimately, it would -- he<br/>4 would report up to me, yes.<br/>5 <b>Q. Would you have any reason to doubt<br/>6 Mr. Taheri if he had testified that he had completed<br/>7 his investigation as to the intrusions that are<br/>8 alleged in this case?</b><br/>9 MR. PELLEGRINO: Objection to form.<br/>10 THE WITNESS: I would not have any reason to<br/>11 doubt what Mr. Taheri said, no.<br/>12 BY MR. MORLAN:<br/>13 <b>Q. And are you aware of any current problems<br/>14 with the functioning of the MPFin system?</b><br/>15 A. I haven't heard of anything. I don't know<br/>16 if there is or not.<br/>17 <b>Q. And if you wanted to find out if there were<br/>18 any problems with the data integrity or usability of<br/>19 MPFin system, is Mr. Taheri who you would ask?</b><br/>20 A. Either -- either Mr. Taheri or -- or Teresa<br/>21 Licamora who's our B. Riley rep over Suttonpark.<br/>22 <b>Q. Okay. What are Ms. Licamora's<br/>23 qualifications and credentials with respect to cyber<br/>24 security?</b><br/>25 A. As far as cyber security? She's not an IT</p> | <p style="text-align: right;">Page 201</p> <p>1 <b>or the usability of the MPFin system?</b><br/>2 A. I'm not aware of any, no.<br/>3 <b>Q. And in terms of any investigation as to the<br/>4 intrusions alleged in -- in -- in your complaint --<br/>5 and -- and let's leave to the side for a moment the<br/>6 Max Davis intrusion from December. We can talk about<br/>7 that separately. I don't know how much you know about<br/>8 that, but we can kind of put that off to the side.<br/>9 But with respect to the other intrusions, is<br/>10 there anything from your perspective or that Mr. Mazur<br/>11 or Mr. Taheri has told you that needs to happen in<br/>12 order to complete those investigations?</b><br/>13 A. I'm -- I'm not aware of what -- what is<br/>14 necessary.<br/>15 <b>Q. Do you know whether any additional<br/>16 investigative steps need to be taken?</b><br/>17 A. I don't know.<br/>18 <b>Q. Okay. And the -- leaving aside the December<br/>19 alleged incursion, isn't the last date of the alleged<br/>20 incursion August 9th, 2024?</b><br/>21 A. Yeah, I think -- I believe so, other than<br/>22 the one in December because that's what triggered the<br/>23 Crowd -- the Crowd -- CrowdStrike notification.<br/>24 <b>Q. Well, is it your understanding that the one<br/>25 on December 22nd is the only one that triggered a</b></p> |

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| <p style="text-align: right;">Page 202</p> <p><b>1 CrowdStrike notification?</b></p> <p>2 MR. PELLEGRINO: Objection to form.</p> <p>3 THE WITNESS: No, the August 9th one was the</p> <p>4 one that triggered a CrowdStrike notification.</p> <p>5 BY MR. MORLAN:</p> <p><b>6 Q. Okay. Is your understanding that the</b></p> <p><b>7 December 22nd one did or did not trigger a CrowdStrike</b></p> <p><b>8 warning?</b></p> <p>9 A. I believe it did.</p> <p><b>10 Q. Okay. And do you know what CrowdStrike is?</b></p> <p>11 A. From a very high level layman's perspective.</p> <p><b>12 Q. Okay. Can you give me your very high level</b></p> <p><b>13 layman's perspective?</b></p> <p>14 A. It's essentially a monitoring tool and a</p> <p>15 protection tool to prevent against cyber intrusions</p> <p>16 and cyber -- data breaches.</p> <p><b>17 Q. Do you know how many people at Suttonpark</b></p> <p><b>18 have credentials for the CrowdStrike system?</b></p> <p>19 A. No, I don't.</p> <p><b>20 Q. If I told you that there were four, would</b></p> <p><b>21 you have reason to doubt that?</b></p> <p>22 A. You could tell me there were ten, I wouldn't</p> <p>23 have any reason to doubt. I -- I just don't know how</p> <p>24 many there are.</p> <p><b>25 Q. Okay. And is -- is it your understanding</b></p>                                                                              | <p style="text-align: right;">Page 204</p> <p><b>1 company, a different company that experienced a cyber</b></p> <p><b>2 security breach?</b></p> <p>3 A. Not to this extent. I've worked for</p> <p>4 internet retailers before who are constantly being</p> <p>5 battered for, you know, cyber breaches and things like</p> <p>6 that. But nothing like this.</p> <p><b>7 Q. Okay. Have you ever dealt with the</b></p> <p><b>8 notification options -- obligations, excuse me, that</b></p> <p><b>9 are required with respect to a cyber security data</b></p> <p><b>10 breach?</b></p> <p>11 A. I have, but I couldn't recite the</p> <p>12 responsibilities to you. I know there are certain</p> <p>13 things you have to do and report when there's a cyber</p> <p>14 security breach.</p> <p><b>15 Q. Okay. And who at Suttonpark or 777 would be</b></p> <p><b>16 ultimately responsible for meeting those obligations</b></p> <p><b>17 with respect to a cyber security breach?</b></p> <p>18 A. I'm not sure. The initial reporting would</p> <p>19 probably start with IT and then probably funnel</p> <p>20 through the legal department.</p> <p><b>21 Q. Okay. To your knowledge, has 777 provided</b></p> <p><b>22 any data breach notifications in connection with the</b></p> <p><b>23 incursions alleged in your complaint or the reports</b></p> <p><b>24 during your expert?</b></p> <p>25 A. I know it was reported to law enforcement.</p>                                       |
| <p style="text-align: right;">Page 203</p> <p><b>1 that 9 out of the 10 intrusions identified in</b></p> <p><b>2 Mr. Mazur's initial two reports were performed using</b></p> <p><b>3 Mr. Davis's CrowdStrike credentials?</b></p> <p>4 A. That's my understanding.</p> <p><b>5 Q. And do you know whether or not those</b></p> <p><b>6 CrowdStrike credentials of Mr. Davis have been</b></p> <p><b>7 deactivated?</b></p> <p>8 A. They've been represented to me that they've</p> <p>9 been deactivated.</p> <p><b>10 Q. Okay. Do you have any reason to doubt</b></p> <p><b>11 they've been deactivated?</b></p> <p>12 A. No, I don't.</p> <p><b>13 Q. Would you be upset if they weren't</b></p> <p><b>14 deactivated at this point?</b></p> <p>15 A. It would -- it would -- it would be a</p> <p>16 problem if they weren't deactivated at this point.</p> <p><b>17 Q. As a manager with fiduciary responsibilities</b></p> <p><b>18 to the stakeholders, if you found out they hadn't been</b></p> <p><b>19 deactivated, you would consider taking some action in</b></p> <p><b>20 light of that information, would you not?</b></p> <p>21 A. I have to take the facts and circumstances</p> <p>22 into consideration, but I -- I would definitely</p> <p>23 investigate it.</p> <p><b>24 Q. Do you -- have you ever been in a similar</b></p> <p><b>25 executive type of role where you are now for a</b></p> | <p style="text-align: right;">Page 205</p> <p>1 I don't know what other notifications were made or</p> <p>2 required to be made.</p> <p><b>3 Q. If you wanted to find out what notifications</b></p> <p><b>4 would be made -- would have been made, how would you</b></p> <p><b>5 find that out?</b></p> <p>6 A. I believe someone in legal would know what</p> <p>7 has to be reported and -- and how.</p> <p><b>8 Q. Okay. My -- my question -- I think your --</b></p> <p><b>9 and admittedly, maybe it was a little unclear.</b></p> <p>10 I'm not asking about who would know what the</p> <p>11 obligations are. I'm just asking who would know</p> <p>12 whether or not any date -- data breach notifications</p> <p>13 were sent out.</p> <p>14 A. I don't know. I would only be speculating.</p> <p><b>15 Q. Okay. And as you sit here today, you're not</b></p> <p><b>16 aware of any data breach notifications that have been</b></p> <p><b>17 sent out to any individuals regarding their personal</b></p> <p><b>18 data being involved in a data breach; is that correct?</b></p> <p>19 A. That's my understanding. Yes, I'm unaware.</p> <p><b>20 Q. And as part of your investigation, did you</b></p> <p><b>21 identify any other potential attack vectors besides</b></p> <p><b>22 Noah Davis?</b></p> <p>23 A. Shawn and -- and Eric Mazur were the ones</p> <p>24 who did the investigation. And I don't believe they</p> <p>25 saw anybody -- other suspects other than Noah.</p> |

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| <p style="text-align: right;">Page 206</p> <p>1 Q. Okay. Do you know if any suspects, other<br/>2 than Noah, were even considered?<br/>3 A. I don't know.<br/>4 Q. Do you know whether any suspects, other than<br/>5 Noah, were ruled out?<br/>6 A. I don't know.<br/>7 Q. Do you know if there are any other<br/>8 disgruntled former 777 or Suttonpark employees besides<br/>9 Noah Davis?<br/>10 A. I believe there are.<br/>11 Q. Okay. And do you know whether or not any of<br/>12 those people were considered a potential suspect or<br/>13 ruled out from consideration?<br/>14 A. I don't -- I don't know.<br/>15 Q. You've provided a declaration in this<br/>16 litigation; is that correct?<br/>17 A. Correct.<br/>18 Q. Okay. And you've provided a lot of<br/>19 declarations in a lot of litigation; would that be<br/>20 fair to say?<br/>21 A. I'm not certain litigation, but if you<br/>22 include bankruptcy as litigation, yes, I provide<br/>23 declarations.<br/>24 Q. Okay. Over 100?<br/>25 A. No, I don't think that many. Maybe --</p>                                                                                                                                              | <p style="text-align: right;">Page 208</p> <p>1 declaration that we've marked as Shapiro 7 --<br/>2 Exhibit 7, all of the statements that you made in<br/>3 there are true and correct; is that right?<br/>4 A. To the best of my knowledge, yes.<br/>5 Q. Okay. And if somebody were evaluating this<br/>6 litigation and evaluating the evidence, they would<br/>7 be --<br/>8 MR. MORLAN: Strike that.<br/>9 BY MR. MORLAN:<br/>10 Q. Have you reviewed any other declarations in<br/>11 this case?<br/>12 A. For purposes of this deposition, I reviewed<br/>13 Shawn Taheri's declaration and then my declarations.<br/>14 Those were the only ones I looked at.<br/>15 Q. Okay. But through the course of this<br/>16 litigation, have you reviewed any other declarations?<br/>17 A. I'm sure I reviewed them at some point in<br/>18 time.<br/>19 Q. In reviewing Mr. Taheri's declaration, did<br/>20 you see any information in there that you were<br/>21 concerned about or that you disagreed with?<br/>22 A. I did not.<br/>23 Q. Okay. Did you review Mr. Kosinski's<br/>24 declaration that was filed in opposition to the motion<br/>25 for preliminary injunction?</p>                                                                    |
| <p style="text-align: right;">Page 207</p> <p>1 Q. Around 50?<br/>2 A. Probably around 50.<br/>3 Q. Okay. And what's the purpose, generally<br/>4 speaking, your understanding of why you would provide<br/>5 a declaration as an officer of any particular company?<br/>6 A. Well, I think it's to give -- I don't want<br/>7 to say -- well, I guess a personal context and -- and<br/>8 personal responsibility over -- and having somebody --<br/>9 for lack of better term, certify their belief in -- in<br/>10 what's been filed, as opposed to it just being<br/>11 blanket. There's probably other legal reasons for it,<br/>12 but that's how I view it, that --<br/>13 Q. Okay.<br/>14 A. -- you're making a personal statement about<br/>15 these filings.<br/>16 Q. And it's a document that is intended to be<br/>17 something that the court can rely on, correct?<br/>18 A. Correct.<br/>19 Q. Okay. And it's something that should be<br/>20 carefully considered by the parties, correct?<br/>21 A. Correct.<br/>22 Q. And it's something that you actually have --<br/>23 have sworn is -- is true; is that correct?<br/>24 A. Correct.<br/>25 Q. Okay. And with respect to this specific</p> | <p style="text-align: right;">Page 209</p> <p>1 A. I don't believe I did.<br/>2 Q. Okay. Do you think that reviewing a party's<br/>3 sworn statement and testimony would have some value to<br/>4 your exercise of business judgment in terms of how you<br/>5 manage this particular litigation?<br/>6 A. I mean, information is good. I -- I<br/>7 frequently look at pleadings. And I don't -- I don't<br/>8 think I looked at Paul's declaration, but, you know,<br/>9 I -- I don't look at every -- every file -- every<br/>10 filing in every case.<br/>11 Q. Okay. Did you review any declarations of<br/>12 any witnesses for Leadenhall?<br/>13 A. No.<br/>14 Q. Did you review Mr. Mazur's declaration?<br/>15 A. I don't think I looked at his declaration.<br/>16 Q. But in fairness to you, you did review all<br/>17 of his reports carefully; is that correct?<br/>18 A. I did look at his reports, yes.<br/>19 Q. Okay. Well, let's take a look at your<br/>20 declaration.<br/>21 Am I correct in concluding, based on this<br/>22 declaration, that Steve Pasko and Josh Wander retained<br/>23 you to serve as chief operating officer?<br/>24 A. Yes. On May 3rd (perusing).<br/>25 Q. And Paragraph 5, would it be accurate to say</p> |

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| <p style="text-align: right;">Page 210</p> <p>1 that you and Mr. Ratner were appointed -- I'm sorry,<br/>2 Mr. Glass and Mr. Ratner were appointed effective<br/>3 March 6th, 2024 [sic], as managers of 777 and<br/>4 Suttonpark?<br/>5 A. May 6th, 2024 (perusing).<br/>6 Q. Okay. And I believe you testified that you<br/>7 replaced Mr. Glass as a manager of both of the<br/>8 entities at issue, correct?<br/>9 A. Correct, in mid September.<br/>10 Q. Okay. But prior to mid September, you were<br/>11 still intimately involved in the operations of the<br/>12 entities as issue, correct?<br/>13 A. Correct.<br/>14 Q. And other than your active involvement and<br/>15 knowledge, was -- was there any other reason that you<br/>16 replaced Mr. Glass as a manager?<br/>17 A. No, no other reason.<br/>18 Q. Mr. Glass didn't retire?<br/>19 A. No. He's -- I saw him last night. Still<br/>20 around.<br/>21 Q. Okay. Didn't get sick?<br/>22 A. No.<br/>23 Q. So it was purely just a matter of the way<br/>24 things worked out, you kind of had more day-to-day<br/>25 active involvement and -- and -- and knew what was</p>                                                                                                                                                                                                        | <p style="text-align: right;">Page 212</p> <p>1 A. No.<br/>2 Q. And when was the first time that you<br/>3 collected documents for this -- for purposes of this<br/>4 litigation?<br/>5 A. In what -- for what purpose?<br/>6 Q. Any purpose.<br/>7 A. Collected documents for this litigation?<br/>8 I -- I'm not the one responsible for collecting<br/>9 documents.<br/>10 Q. Who is responsible for collecting documents?<br/>11 A. The legal team is. If -- if there's<br/>12 discovery and documents being collected, it's being<br/>13 coordinated through legal.<br/>14 Q. Does the legal team report to you?<br/>15 A. They do.<br/>16 Q. Okay. And do you supervise and direct the<br/>17 legal team?<br/>18 A. They're pretty self-sufficient, but, you<br/>19 know, they're -- as -- as the COO, ultimately<br/>20 everybody is reporting to me.<br/>21 Q. Okay. But -- but there's nobody else that<br/>22 has the right to or the authority to direct the legal<br/>23 team besides you and Mr. Ratner; is that right?<br/>24 A. That is correct.<br/>25 Q. When you say in Paragraph 7 of your</p>                                                                                                                                                                                                                                                                                                                                                      |
| <p style="text-align: right;">Page 211</p> <p>1 going on more than he did ultimately?<br/>2 A. I think so.<br/>3 Q. And other than you and Mr. Ratner, does<br/>4 anyone else actually exercise any ultimate control or<br/>5 authority over the management of 777 and Suttonpark?<br/>6 A. No.<br/>7 Q. And do you and Mr. Ratner sort of have a --<br/>8 particular areas that you might be more responsible<br/>9 for than others, areas of focus?<br/>10 A. I'm there more now. Ian's -- Ian's there<br/>11 less. He's -- you know, as this case has matured,<br/>12 it's taken less of our time. So he -- he spends time<br/>13 on -- well, he could tell you directly, but he<br/>14 probably spends more time on -- on litigation matters<br/>15 and I'm spending probably more time on operations. He<br/>16 does as well, but we just -- I'm there and spending<br/>17 more time on the case than he is at this point.<br/>18 Q. Okay. And -- and when you say "the case,"<br/>19 do you mean this specific litigation or are you<br/>20 referring to case like as a broad sense of the -- the<br/>21 goings on at the -- at the entities at issue?<br/>22 A. The latter, the -- the broad goings on at<br/>23 the entities.<br/>24 Q. Okay. So the activity in this litigation<br/>25 has not declined recently to your knowledge, has it?</p> | <p style="text-align: right;">Page 213</p> <p>1 declaration that B. Riley "performed a triage of all<br/>2 assets and liabilities," I'm familiar with the word<br/>3 "triage," especially in a medical context. But tell<br/>4 me as a recon- -- restructuring professional and a<br/>5 chief operating officer, what triage of all assets and<br/>6 liabilities means?<br/>7 A. So if -- you remember my earlier testimony,<br/>8 we talked about focusing on cash flow. It's a fairly<br/>9 sprawling operation. And when you're triaging, you're<br/>10 trying to find out where -- where the bleeding is and<br/>11 trying to stop the bleeding. I mean, we like to think<br/>12 of ourselves as a doctor and that's pretty sad. But<br/>13 it is -- you know, there -- there are certain<br/>14 companies that are bleeding cash and others that are<br/>15 making cash and some that are being sued and<br/>16 litigation all over and some are leveraged to the hilt<br/>17 and you're just trying to get your arms around the<br/>18 situation. Because this really isn't a consolidating<br/>19 entity. It's a -- it's a portfolio of very dispart<br/>20 companies and you have to get your arms around it.<br/>21 That's what -- that's what we spent our time on.<br/>22 Q. Okay. And as part of triaging assets and<br/>23 liabilities, do you tend to focus on the largest<br/>24 assets and the largest liabilities as part of that<br/>25 process?</p> |

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| <p style="text-align: right;">Page 214</p> <p>1 A. Sometimes. Sometimes it's -- you know, the<br/>2 problem child is the small one, you know, but it's --<br/>3 it's -- it's all over the board. But traditionally<br/>4 the -- you'd focus on the biggest problems first and<br/>5 then deal with the smaller problems later.<br/>6 <b>Q. Okay. So what were the biggest problems<br/>7 that you dealt with first when you came in in May 2024<br/>8 and needed to perform a triage?</b><br/>9 A. Cash, use of cash. A lot of these companies<br/>10 took a lot of -- a lot of money. And it was trying to<br/>11 figure out what companies we needed to stop funding<br/>12 and what companies we could still fund, if there were<br/>13 any immediate sales, liquidations, monetizations, any<br/>14 easy wins that we could get. But it really focused on<br/>15 litigation and burning of cash and where -- where were<br/>16 each of those things.<br/>17 <b>Q. Are there any active litigation cases right<br/>18 now in which 777 and Suttonpark face greater exposure<br/>19 than the New York litigation with Leadenhall?</b><br/>20 MR. PELLEGRINO: Objection to form.<br/>21 THE WITNESS: I don't believe there's any<br/>22 litigation greater than the New York suit with<br/>23 Leadenhall, no.<br/>24 BY MR. MORLAN:<br/>25 <b>Q. Is there any other litigation where there's</b></p> | <p style="text-align: right;">Page 216</p> <p>1 A. I don't think so.<br/>2 <b>Q. And I think that -- turning back to the --<br/>3 the instant litigation that we're -- that we're here<br/>4 on, what is your assessment of your total -- the<br/>5 company's total current damages that are potentially<br/>6 recoverable in litigation?</b><br/>7 A. Well, I think I said before, there's --<br/>8 there's the -- you know, the outside, you know,<br/>9 out-of-pocket cost damages. We don't know if there<br/>10 are other damages. You know, you asked before whether<br/>11 the investigation is continuing. I think we have to<br/>12 keep looking and seeing if there's any other potential<br/>13 damages out there. But the number I gave before was<br/>14 600 -- 600,000 and growing. But, you know, I'm not --<br/>15 I'm not sure if that's the end of it.<br/>16 <b>Q. Okay. What do you need to do to keep<br/>17 looking?</b><br/>18 A. Well, I think Shawn and Eric need to still<br/>19 assess the -- if there's anything to be done with<br/>20 information that was stolen or -- or is there any<br/>21 remnant damage to the system. I just don't know.<br/>22 <b>Q. Would you agree with Mr. Taheri and<br/>23 Mr. Mazur that there is no forensic evidence that any<br/>24 data was actually obtained during the ten incursions<br/>25 identified in Mr. Mazur's report?</b></p> |
| <p style="text-align: right;">Page 215</p> <p>1 <b>more than \$10 million at stake in the litigation?</b><br/>2 A. Yes.<br/>3 <b>Q. Okay. How many other cases?</b><br/>4 A. I couldn't -- I couldn't tell you the exact<br/>5 number.<br/>6 <b>Q. Okay. Can you estimate?</b><br/>7 A. Oh, no, I don't want to give you a bad<br/>8 number. I really don't. It's -- it's --<br/>9 <b>Q. Okay.</b><br/>10 A. It's not dozens. It's, you know, less than<br/>11 ten. I just don't know if it's five or ten or, you<br/>12 know, \$10 million a threshold and I just don't know an<br/>13 exact number.<br/>14 <b>Q. Okay. That's fair.</b><br/>15 <b>What about 20 million?</b><br/>16 A. Probably -- probably a similar number.<br/>17 <b>Q. Okay. What about 50 million?</b><br/>18 A. Those would be few.<br/>19 <b>Q. Okay. Can you name any other active<br/>20 litigation where the liabilities are \$50 million or<br/>21 greater?</b><br/>22 A. I couldn't -- I couldn't name you the case<br/>23 right now. I think there's a couple around.<br/>24 <b>Q. How about any other cases over 100 million?<br/>25 Are there any over 100 million?</b></p>                                                                                                                                                                                                                                          | <p style="text-align: right;">Page 217</p> <p>1 MR. PELLEGRINO: Objection to form.<br/>2 THE WITNESS: Yeah, I -- I don't want to<br/>3 speak for them. I'm not sure if they said there<br/>4 was never any data obtained. I don't -- I<br/>5 don't -- I don't know if they've actually said<br/>6 that. You know, I have no reason to doubt<br/>7 anything that Shawn and Eric are saying. I just<br/>8 don't know what they've said.<br/>9 BY MR. MORLAN:<br/>10 <b>Q. But if they're -- if there was forensic<br/>11 evidence that specifically showed that 777 or<br/>12 Suttonpark data was actually obtained during any of<br/>13 these alleged incursions referenced in Mazur's report,<br/>14 that that would be an important fact in this case,<br/>15 right?</b><br/>16 A. Yes.<br/>17 <b>Q. And that would be something that would be<br/>18 important for you to know as the manager and decision<br/>19 maker overseeing and exercising business judgment on<br/>20 behalf of the stakeholders with respect to this<br/>21 litigation, correct?</b><br/>22 A. Yes. Goes into the -- all the information,<br/>23 the facts and circumstances, yes.<br/>24 <b>Q. And that would also be important information<br/>25 that Mr. Mazur would have included in his report based</b></p>                                                                                                            |

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| <p style="text-align: right;">Page 218</p> <p><b>1 on his scope of work and what you asked him to do as I</b><br/> <b>2 understand it; is that correct?</b><br/> 3 A. I don't want to speak for Mr. Mazur.<br/> 4 <b>Q. I'm sorry?</b><br/> 5 A. I said I don't want to speak for Mr. Mazur<br/> 6 as to what he's going to be putting in his report.<br/> 7 It's his report.<br/> 8 <b>Q. Well, you hired Mr. Mazur and he ultimately</b><br/> <b>9 reports to you. Do you have an expectation that he</b><br/> <b>10 would provide you with -- if he had information that</b><br/> <b>11 proved that 777 or Suttonpark's data was actually</b><br/> <b>12 obtained during those incursions, that wouldn't you</b><br/> <b>13 expect him to provide you with that?</b><br/> 14 A. I would think so. I think -- I would think<br/> 15 any material information he would put in his report,<br/> 16 yes.<br/> 17 <b>Q. Okay. And as you sit here today, do you</b><br/> <b>18 recall reading in Mr. Mazur's report that any</b><br/> <b>19 information was actually obtained or did he say that</b><br/> <b>20 he was unable to determine whether and what</b><br/> <b>21 information was actually obtained, if at all, during</b><br/> <b>22 those incursions?</b><br/> 23 MR. PELLEGRINO: Objection to form.<br/> 24 THE WITNESS: Yeah, without looking at the<br/> 25 report right now, I couldn't quote what he said.</p> | <p style="text-align: right;">Page 220</p> <p>1 right. Well, let me give you a chance to take a<br/> 2 look at that. And we're going to go off the<br/> 3 record. And just let me know once you've had a<br/> 4 chance to look at that so we don't interrupt you<br/> 5 while you're trying to take a look at it.<br/> 6 Off the record.<br/> 7 THE VIDEOGRAPHER: Okay. Going off the<br/> 8 record at 5:45.<br/> 9 (A recess was taken.)<br/> 10 THE VIDEOGRAPHER: Back on the record at<br/> 11 5:47.<br/> 12 BY MR. MORLAN:<br/> 13 <b>Q. Mr. Shapiro, did you have an opportunity to</b><br/> <b>14 refresh your recollection by reviewing Mr. Mazur's</b><br/> <b>15 September 2024 report, as well as his January 2nd,</b><br/> <b>16 2025, supplemental report, which we've marked as</b><br/> <b>17 Exhibit 4 for purposes of this deposition?</b><br/> 18 A. I did.<br/> 19 <b>Q. Okay. And you've seen these documents</b><br/> <b>20 before?</b><br/> 21 A. Yes, I have.<br/> 22 <b>Q. Okay. And are these documents that you've</b><br/> <b>23 carefully considered in the exercise of your business</b><br/> <b>24 judgment in managing this litigation?</b><br/> 25 A. Yes.</p> |
| <p style="text-align: right;">Page 219</p> <p>1 BY MR. MORLAN:<br/> 2 <b>Q. Okay. But you're familiar with the report?</b><br/> 3 A. Yes, I am.<br/> 4 <b>Q. It's just -- it's just not right in front of</b><br/> <b>5 you right now?</b><br/> 6 A. Correct.<br/> 7 <b>Q. Okay. So do you think looking at the report</b><br/> <b>8 would then refresh your recollection in fairness to</b><br/> <b>9 you?</b><br/> 10 A. Yes.<br/> 11 <b>Q. Okay. So I am going to send a --</b><br/> <b>12 Mr. Mazur's report and give you a chance to look at</b><br/> <b>13 it. And if you'll just -- we'll go off the record</b><br/> <b>14 while I send that and you have a chance to look at it.</b><br/> <b>15 And then let me know when you've had a chance to look</b><br/> <b>16 at it adequately and refresh your recollection and</b><br/> <b>17 then we'll proceed.</b><br/> 18 MR. STARR: One -- one second. One second,<br/> 19 Hal. He -- if it's one of -- if it's the initial<br/> 20 report or the January supplemental report, that's<br/> 21 already been introduced.<br/> 22 THE WITNESS: It's -- it's 4, Number 4.<br/> 23 MR. MORLAN: Okay.<br/> 24 MR. STARR: It's Exhibit 4.<br/> 25 MR. MORLAN: That's Exhibit 4? Okay. All</p>                                                                                                                                                                                 | <p style="text-align: right;">Page 221</p> <p>1 <b>Q. Okay. And did you have access to the</b><br/> <b>2 information in the report dated September 2024 prior</b><br/> <b>3 to the filing of the complaint in this action?</b><br/> 4 A. I did.<br/> 5 <b>Q. Did -- I'm sorry, I didn't hear you. Did</b><br/> <b>6 you answer?</b><br/> 7 A. Yes. I did.<br/> 8 <b>Q. Oh, you did?</b><br/> 9 A. Yes.<br/> 10 <b>Q. You did have access to this --</b><br/> 11 <b>A. Yes.</b><br/> 12 <b>Q. -- to Mr. Mazur's initial report prior to</b><br/> <b>13 the litigation being filed?</b><br/> 14 A. Yes.<br/> 15 <b>Q. Okay. And what is the date of Mr. Mazur's</b><br/> <b>16 initial report?</b><br/> 17 A. September 27th (perusing).<br/> 18 <b>Q. And am I correct that that report identifies</b><br/> <b>19 ten potential intrusions?</b><br/> 20 A. Yes.<br/> 21 <b>Q. Okay. And does the report identify any data</b><br/> <b>22 that was definitively obtained during the incursions?</b><br/> 23 MR. PELLEGRINO: Objection to form.<br/> 24 THE WITNESS: It does not.<br/> 25 BY MR. MORLAN:</p>                                                                                     |

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| <p style="text-align: right;">Page 222</p> <p>1 <b>Q. Is there a different report or different</b><br/> 2 <b>materials that you would rely on to provide evidence</b><br/> 3 <b>that data was obtained during the incursions?</b><br/> 4 A. If it was there, it would be supplied by<br/> 5 Mr. Taheri and Mr. Mazur.<br/> 6 <b>Q. And did you also have an opportunity to look</b><br/> 7 <b>at the supplemental report that Mr. Mazur did on</b><br/> 8 <b>January -- dated January 2nd --</b><br/> 9 A. I did.<br/> 10 <b>Q. -- 2025?</b><br/> 11 A. I did.<br/> 12 <b>Q. Okay. And does that similarly lack any</b><br/> 13 <b>definitive forensic evidence tying any data actually</b><br/> 14 <b>obtained to any particular incursion?</b><br/> 15 MR. PELLEGRINO: Objection to form.<br/> 16 THE WITNESS: Yes. And in the supplement, I<br/> 17 think Eric concludes (as read) "Our investigation<br/> 18 is ongoing to determine what changes/modifications<br/> 19 were made to these records and whether any<br/> 20 additional records were accessed and/or modified<br/> 21 without authorization. Due to the volume of data<br/> 22 and the substantial number of records contained,<br/> 23 it is unclear at this point how many records were<br/> 24 accessed or altered during the data breaches."<br/> 25 BY MR. MORLAN:</p>                                                           | <p style="text-align: right;">Page 224</p> <p>1 providing access to Saiph, Kosinski, and Davis for<br/> 2 purposes of the audit, correct?<br/> 3 A. Correct.<br/> 4 <b>Q. But you overruled those objections based on</b><br/> 5 <b>your business judgment that Leadenhall was entitled to</b><br/> 6 <b>review its data pursuant to the contractual agreements</b><br/> 7 <b>that it had with the companies, correct?</b><br/> 8 A. Correct. Both Jim Howard and me, yes.<br/> 9 <b>Q. And as part of a safeguard though, however,</b><br/> 10 <b>given those concerns, the credentials that were</b><br/> 11 <b>provided to Saiph limited their access to basically</b><br/> 12 <b>read access of the Leadenhall files within the MPFin</b><br/> 13 <b>database, correct?</b><br/> 14 A. That was my understanding of the<br/> 15 credentials, yes.<br/> 16 <b>Q. And with respect to the --</b><br/> 17 A. Actually, let me -- let me correct that.<br/> 18 It's read only. I don't even think it was read/write.<br/> 19 I think it's read only.<br/> 20 <b>Q. Oh, okay. Thank you for that, for that</b><br/> 21 <b>correction. I -- I meant read only.</b><br/> 22 A. Yeah.<br/> 23 <b>Q. If I said write, there should not have been</b><br/> 24 <b>write access --</b><br/> 25 A. Right.</p> |
| <p style="text-align: right;">Page 223</p> <p>1 <b>Q. Okay. Can you tell me what -- what page</b><br/> 2 <b>you're on?</b><br/> 3 A. That was Page 3 of -- at the bottom of<br/> 4 Page 3 of the supplement.<br/> 5 <b>Q. Okay. Can -- can you just tell me where on</b><br/> 6 <b>Page 3 it -- it specifically says that data was</b><br/> 7 <b>obtained?</b><br/> 8 A. No, it just says the work is ongoing. It<br/> 9 doesn't say data is obtained.<br/> 10 <b>Q. Okay. But with respect to Page 3, when it</b><br/> 11 <b>says that the investigation is ongoing, isn't it</b><br/> 12 <b>referring to changes and modifications to data, not</b><br/> 13 <b>data that was stolen or otherwise obtained?</b><br/> 14 A. Okay. May -- maybe I acquaint the two, but<br/> 15 that's his wording here, changes and modifications.<br/> 16 <b>Q. Okay. Do you need some more time with the</b><br/> 17 <b>report?</b><br/> 18 A. No, no. It is what it is.<br/> 19 <b>Q. Okay. So isn't this -- this whole Page 3</b><br/> 20 <b>and these charts, this is about whether or not</b><br/> 21 <b>particular files within MPFin were modified, isn't it?</b><br/> 22 A. Accessed, modified, changed, yes.<br/> 23 <b>Q. Okay. And I believe you testified earlier</b><br/> 24 <b>that there were several members of 777/Suttonpark</b><br/> 25 <b>legacy employees that had serious concerns about</b></p> | <p style="text-align: right;">Page 225</p> <p>1 <b>Q. -- correct?</b><br/> 2 A. Correct.<br/> 3 <b>Q. Okay. And on Page 3, there's some records</b><br/> 4 <b>that are identified by a record ID number, correct?</b><br/> 5 A. The supplement? Of the -- the --<br/> 6 <b>Q. Yes, the supplemental report.</b><br/> 7 A. Yes (perusing).<br/> 8 <b>Q. That we were just looking at, Page 3.</b><br/> 9 <b>And I don't believe that I've seen any</b><br/> 10 <b>information, but maybe there's some new information</b><br/> 11 <b>that -- that -- that you have.</b><br/> 12 <b>But Mr. Taheri or Mr. Mazur have not</b><br/> 13 <b>provided any information that the particular records</b><br/> 14 <b>listed on this page were actually compromised, have</b><br/> 15 <b>they?</b><br/> 16 MR. PELLEGRINO: Objection to form.<br/> 17 THE WITNESS: No. And at the bottom he says<br/> 18 they have to keep looking to determine whether or<br/> 19 not they've been modified (perusing).<br/> 20 BY MR. MORLAN:<br/> 21 <b>Q. And one of the intrusions that I think</b><br/> 22 <b>you're aware of involved alleged access to Steve</b><br/> 23 <b>Pasko's e-mail files; is that right?</b><br/> 24 A. Yes.<br/> 25 <b>Q. And I believe you testified that you believe</b></p>                  |

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| <p style="text-align: right;">Page 226</p> <p>1 that there might be information in Steve Pasko's<br/>2 e-mails that might be useful to Leadenhall's<br/>3 litigation in New York alleging fraud; is that right?<br/>4 A. No, I don't think I testified that there is<br/>5 information that could allege fraud. I think some --<br/>6 someone may think that there's information there that<br/>7 could prove fraud. I'm not saying it's there.<br/>8 Q. But is it your position that -- well, let me<br/>9 ask you: Have -- have you done any kind of -- given<br/>10 that there are allegations of -- of fraud and given<br/>11 the company's position that -- well, let me ask you<br/>12 this --<br/>13 MR. MORLAN: Strike that.<br/>14 BY MR. MORLAN:<br/>15 Q. Before we get to that, is it the company's<br/>16 position that Leadenhall directed Mr. Davis to seek<br/>17 Mr. Pasko's e-mails in order to gain relevant<br/>18 information for the New York litigation?<br/>19 A. It's our position that they -- can you say<br/>20 that question again?<br/>21 Q. Sure.<br/>22 Well, actually let me let you say it.<br/>23 What is your position with regard to<br/>24 Leadenhall's role, if any, in the access to<br/>25 Mr. Pasko's e-mails?</p> | <p style="text-align: right;">Page 228</p> <p>1 A. Yes.<br/>2 Q. Okay. And I believe Mr. Taheri testified<br/>3 that there's an indefinite hold on all of the<br/>4 Suttonpark e-mails, including Mr. Pasko's, for -- for<br/>5 preservation purposes that's been in place long before<br/>6 the particular litigation that we're here on. Is that<br/>7 your understanding?<br/>8 A. That is my understanding.<br/>9 Q. What information could possibly be on<br/>10 Mr. Pasko's laptop that would be useful and relevant<br/>11 to Leadenhall in the New York litigation but not<br/>12 accessible to them by virtue of discovery?<br/>13 A. I can't -- I don't know.<br/>14 MR. PELLEGRINO: Objection to form.<br/>15 THE WITNESS: I don't know.<br/>16 BY MR. MORLAN:<br/>17 Q. So you don't have any idea what on there<br/>18 could be potentially useful. You just think something<br/>19 could be?<br/>20 A. Something could be. Privileged documents<br/>21 could be. That's one thing.<br/>22 Q. And is there any evidence that any<br/>23 privileged documents were obtained from Mr. Pasko's<br/>24 computer?<br/>25 A. No.</p>                                                                                                                                                        |
| <p style="text-align: right;">Page 227</p> <p>1 A. Our position is that Saiph and Noah Davis<br/>2 accessed Steve Pasko's e-mails to support their<br/>3 litigation, the Leadenhall litigation in New York.<br/>4 That's our position.<br/>5 Q. So as you sit here today, you don't know<br/>6 whether or not there's any information in Steve<br/>7 Pasko's e-mail box that would be relevant to the New<br/>8 York litigation?<br/>9 A. Correct.<br/>10 Q. And you haven't done any investigation to<br/>11 determine the answer to that question, have you?<br/>12 A. No.<br/>13 Q. And you've managed or been involved in<br/>14 managing a lot of litigation and potential litigation,<br/>15 correct?<br/>16 A. Correct. Correct.<br/>17 Q. I'm sorry, I'm having trouble hearing you.<br/>18 I'm not sure what's going on.<br/>19 A. Correct. Is that better?<br/>20 Q. Yes. Thank you.<br/>21 And you're familiar with what a litigation<br/>22 hold is, correct?<br/>23 A. Yes.<br/>24 Q. And you're familiar with document<br/>25 preservation obligations and best practices, correct?</p>                                                                                                                                                        | <p style="text-align: right;">Page 229</p> <p>1 Q. But you would agree with me that if there<br/>2 were relevant documents that were not privileged in<br/>3 Mr. Pasko's e-mail box, that those would be<br/>4 discoverable in the New York litigation, correct?<br/>5 MR. PELLEGRINO: Objection to form.<br/>6 THE WITNESS: I would think so.<br/>7 BY MR. MORLAN:<br/>8 Q. So then there wouldn't really be any reason<br/>9 for Leadenhall to seek the documents from Mr. Pasko's<br/>10 e-mail box, according to your theory, unless they were<br/>11 specifically targeting privileged documents, correct?<br/>12 MR. PELLEGRINO: Objection to form.<br/>13 THE WITNESS: I don't know what's in Steve<br/>14 Pasko's mail -- e-mail. I -- I just -- I don't<br/>15 know. There -- there could be anything out there.<br/>16 BY MR. MORLAN:<br/>17 Q. Well, do you think that you might have a<br/>18 duty to inquire as to what could be in there?<br/>19 A. Well, I think --<br/>20 MR. PELLEGRINO: Objection to form.<br/>21 THE WITNESS: I -- I think -- look,<br/>22 there's -- there's a lot of litigation going on.<br/>23 There's a lot of discovery going on. You know,<br/>24 I -- I testified before at some point in time<br/>25 if -- if we have to look at claims, you know,</p> |

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| <p style="text-align: right;">Page 230</p> <p>1 that's something that we may do or it's just going<br/>2 to be part of the litigation. It's -- you know, I<br/>3 don't think we have a duty today to go investigate<br/>4 these claims. It's part of the litigation. It's<br/>5 going to be investigated.<br/>6 BY MR. MORLAN:<br/>7 <b>Q. Well, what's your understanding of your<br/>8 duties to investigate, particularly as a restructuring<br/>9 consultant, when allegations of fraud are made against<br/>10 a principal who has had to resign from the company?</b><br/>11 A. Well, our -- our responsibility is to make<br/>12 sure that it's not happening today. You know,<br/>13 investigations cost money. They take time. There's<br/>14 litigation going on. You're right, there's<br/>15 preservation of documents. But our responsibility is<br/>16 to make sure in -- in -- and that it's not happening<br/>17 today.<br/>18 So he is resigned as a manager. He's no<br/>19 longer an employee. He's no longer making decisions.<br/>20 I don't believe there's any fraud going on with Steve<br/>21 Pasko today. I can opine on what happened in the<br/>22 past, but ultimately that's going to be resolved.<br/>23 We're here to run the company today, not necessarily<br/>24 to do investigations into the past. They will happen.<br/>25 It may be on our watch, it may not be on our watch.</p> | <p style="text-align: right;">Page 232</p> <p>1 But if you're asking me are we doing an<br/>2 investigation into the past right now on these<br/>3 matters, right now we're not doing it. We may in<br/>4 the future, but we're not doing it today. Every<br/>5 matter is different.<br/>6 BY MR. MORLAN:<br/>7 <b>Q. Have you done any investigation into any<br/>8 allegations of fraud that Leadenhall's made?</b><br/>9 A. I'd have to go to the complaint and look at<br/>10 each of the allegations.<br/>11 MR. PELLEGRINO: And I'm just going to<br/>12 object based on work product privilege and what's<br/>13 going on in the southern district litigation. I<br/>14 don't know everything, but it could be based on<br/>15 that.<br/>16 MR. MORLAN: What -- so you think my<br/>17 question of have you done any investigation is --<br/>18 are you instructing him not to answer?<br/>19 MR. PELLEGRINO: I'm not. I'm -- I'm --<br/>20 MR. MORLAN: Okay.<br/>21 MR. PELLEGRINO: I'm warning him that --<br/>22 MR. MORLAN: Then I don't really understand<br/>23 the purpose of the objection other than a speaking<br/>24 coaching objection. Prepare your witnesses before<br/>25 the deposition, not during, please. And please</p>                                                                                                          |
| <p style="text-align: right;">Page 231</p> <p>1 It could be people after us who are going to do<br/>2 those -- those investigations. You know, each -- each<br/>3 matter has a life. And -- and we're here now. We're<br/>4 running the company.<br/>5 <b>Q. So then your testimony is that your only<br/>6 duty with respect to reports of allegations of fraud<br/>7 is to make sure there's no ongoing fraud, but there's<br/>8 no other duty to investigate whether fraud happened in<br/>9 the past? Is that your testimony, sir?</b><br/>10 A. That's not --<br/>11 MR. PELLEGRINO: Objection to form.<br/>12 THE WITNESS: That's not my testimony. My<br/>13 testimony is you're prioritizing what we're doing<br/>14 today. There's a lot of things going on. At this<br/>15 point in time we're not doing an investigation<br/>16 into the allegations in the Leadenhall litigation.<br/>17 There's enough discovery going on that what<br/>18 happened then is going to come out. So where do<br/>19 we put our efforts right now? We're putting our<br/>20 efforts in to look at the current assets, the<br/>21 current cash flows, the current employees, and<br/>22 making sure that we -- we're -- we're -- we're<br/>23 trying to get to a -- a good place on value and<br/>24 maximizing value and -- and ultimately settling<br/>25 some of this litigation.</p>                                        | <p style="text-align: right;">Page 233</p> <p>1 let me continue.<br/>2 BY MR. MORLAN:<br/>3 <b>Q. I'm sorry, we got interrupted. I think<br/>4 your -- my question and your answer was the<br/>5 allegations that Leadenhall has made, you're not aware<br/>6 of any investigation that has been performed as to the<br/>7 allegations of fraud with respect to the New York<br/>8 litigation involving Leadenhall; is that correct?</b><br/>9 A. I think to properly answer that I'd have to<br/>10 look at the complaint and look at all the allegations.<br/>11 I mean, do we -- I mean, if you want me to do that, I<br/>12 can go through it. I -- I don't -- right now, I don't<br/>13 know every allegation of fraud. I know there's<br/>14 allegations of fraud. I mean, do you want me to go<br/>15 through each one?<br/>16 <b>Q. No, I'm not asking which allegations have<br/>17 been investigated. I'm just asking: Have -- have any<br/>18 of the allegation -- any, has there been any alle- --<br/>19 any investigation of any allegations of fraud made in<br/>20 the New York litigation?</b><br/>21 A. I don't believe so. There may have been,<br/>22 but I don't believe so.<br/>23 <b>Q. Would you consider Mr. Kosinski audit an<br/>24 investigation related to the allegations of fraud in<br/>25 the New York litigation?</b></p> |

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| <p style="text-align: right;">Page 234</p> <p>1 A. Well, let me -- let me restate what I said.</p> <p>2 Actually, not Mr. Kosinski's allegations. But I think</p> <p>3 what Jim Howard and Teresa Licamora were doing at</p> <p>4 Suttonpark was an investigation to -- into the alleged</p> <p>5 fraud at Suttonpark to determine -- help determine</p> <p>6 what the shortfall and the collateral and the</p> <p>7 borrowing base is. What Mr. Kosinski was retained to</p> <p>8 do was what Suttonpark is entitled to, the collateral</p> <p>9 audit -- or what Leadenhall is entitled to, a</p> <p>10 collateral audit on their collateral. You know, it's</p> <p>11 the company doing a separate investigation. I would</p> <p>12 say that, yeah, we -- we definitely were -- do -- did</p> <p>13 some investigative work there.</p> <p>14 <b>Q. And did you review Mr. Kosinski's report?</b></p> <p>15 A. I did not.</p> <p>16 <b>Q. Are you familiar with the conclusions of</b></p> <p>17 <b>Mr. Kosinski's report?</b></p> <p>18 A. I am not.</p> <p>19 <b>Q. Are there any collateral shortfalls with</b></p> <p>20 <b>respect to any of the credit facilities provided by</b></p> <p>21 <b>Leadenhall to 777 or Suttonpark?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. And what are those collateral shortfalls?</b></p> <p>24 A. I don't know the exact numbers. It -- it --</p> <p>25 it varies. You know, we -- we had some worksheets</p> | <p style="text-align: right;">Page 236</p> <p>1 MR. STARR: I think he said "would it be</p> <p>2 bad."</p> <p>3 MR. MORLAN: Yeah, that -- that -- that's</p> <p>4 not a legal term that I'm legally familiar with,</p> <p>5 but I -- I --</p> <p>6 MR. PELLEGRINO: We use it all the time.</p> <p>7 BY MR. MORLAN:</p> <p>8 <b>Q. Okay. So is it your belief and a basis for</b></p> <p>9 <b>bringing this lawsuit that Mr. Kosinski was somehow</b></p> <p>10 <b>complicit in Mr. Davis's or the intrusions that you</b></p> <p>11 <b>allege that Mr. Davis made?</b></p> <p>12 A. It's definitely possible.</p> <p>13 <b>Q. Okay. My question was whether or not that</b></p> <p>14 <b>was your conclusion and whether or not that was your</b></p> <p>15 <b>position, not whether or not it was possible.</b></p> <p>16 <b>Are -- are you stating as part of your</b></p> <p>17 <b>position in this litigation that Mr. Kosinski was, to</b></p> <p>18 <b>use another legal term, in cahoots with Mr. Davis with</b></p> <p>19 <b>respect to the intrusions that Mr. Mazur has</b></p> <p>20 <b>identified in his report?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. But you have not even read Mr. Kosinski's</b></p> <p>23 <b>report, correct?</b></p> <p>24 A. Correct.</p> <p>25 <b>Q. Do you know whether Mr. Kosinski's report</b></p>                                                                             |
| <p style="text-align: right;">Page 235</p> <p>1 done up on them. And Jim -- I -- Jim Howard is</p> <p>2 probably better to testifying on that than I am. I</p> <p>3 don't know what the exact estimates are today.</p> <p>4 <b>Q. Are the estimates material?</b></p> <p>5 A. Yes.</p> <p>6 <b>Q. Are they more than \$100 million?</b></p> <p>7 A. I don't believe so.</p> <p>8 <b>Q. And would it be safe to say that the</b></p> <p>9 <b>shortfalls in collateral subject Suttonpark and/or 777</b></p> <p>10 <b>to potential liability?</b></p> <p>11 A. In that the allegations in the New York</p> <p>12 complaint?</p> <p>13 <b>Q. Well, I'm asking you. If those allegations</b></p> <p>14 <b>are -- are -- are proven, would that be bad for 777</b></p> <p>15 <b>and Suttonpark?</b></p> <p>16 A. Yes.</p> <p>17 MR. PELLEGRINO: Objection to form.</p> <p>18 BY MR. MORLAN:</p> <p>19 <b>Q. I'm sorry, did you say yes?</b></p> <p>20 A. Yes.</p> <p>21 MR. MORLAN: What's your objection to the</p> <p>22 form?</p> <p>23 MR. PELLEGRINO: I -- I believe you're</p> <p>24 asking him for a legal conclusion. The outcome of</p> <p>25 the lawsuit.</p>                                                                                                                                                                                                                                                                                   | <p style="text-align: right;">Page 237</p> <p>1 <b>was good or bad for 777 and Suttonpark?</b></p> <p>2 A. I haven't read the report.</p> <p>3 <b>Q. That wasn't my question.</b></p> <p>4 <b>My question is just: Do you know as you sit</b></p> <p>5 <b>here today whether the information and conclusions</b></p> <p>6 <b>contained in Mr. Kosinski's report were good or bad</b></p> <p>7 <b>for 777 and Suttonpark?</b></p> <p>8 A. I don't know. I haven't read the report.</p> <p>9 <b>Q. Have you discussed the report with anybody?</b></p> <p>10 A. No.</p> <p>11 <b>Q. Are you aware of any forensic evidence that</b></p> <p>12 <b>demonstrates that Mr. Kosinski had any involvement in</b></p> <p>13 <b>Mr. Davis's intrusion?</b></p> <p>14 A. Mr. Davis was working for Saiph.</p> <p>15 <b>Q. When you say "Mr. Davis was working for</b></p> <p>16 <b>Saiph," do you know whether Mr. Davis was an</b></p> <p>17 <b>independent contractor for Saiph or an employee?</b></p> <p>18 A. No, I don't. He represented himself as part</p> <p>19 of Saiph.</p> <p>20 <b>Q. He represented himself as part of Saiph?</b></p> <p>21 A. He had a Saiph e-mail.</p> <p>22 <b>Q. Other than having a Saiph e-mail address,</b></p> <p>23 <b>was there any other way in which Mr. Davis represented</b></p> <p>24 <b>himself as part of Saiph?</b></p> <p>25 A. I wasn't dealing with Mr. Davis. That would</p> |

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| <p style="text-align: right;">Page 238</p> <p>1 be either -- that would be Shawn Taheri and Jim<br/>2 Howard.<br/>3 <b>Q. So you don't know as you sit here today</b><br/>4 <b>whether Mr. Davis was an employee or a contractor of</b><br/>5 <b>Saiph?</b><br/>6 A. No.<br/>7 <b>Q. Okay. Is that an allegation that's repeated</b><br/>8 <b>in the -- both the complaint and the amended</b><br/>9 <b>complaint?</b><br/>10 A. I don't know.<br/>11 <b>Q. But you reviewed the complaint and the</b><br/>12 <b>amended complaint before they were filed, correct?</b><br/>13 A. Correct. And I can't recall it right now.<br/>14 <b>Q. And what was the purpose of reviewing the</b><br/>15 <b>complaint and the amended complaint before they were</b><br/>16 <b>filed?</b><br/>17 A. To review it for my understanding and<br/>18 accuracies.<br/>19 <b>Q. Okay. And are you aware of any sworn</b><br/>20 <b>information in this case that bears on the question of</b><br/>21 <b>whether or not Mr. Davis was an independent contractor</b><br/>22 <b>or an employee of Saiph?</b><br/>23 A. Not that I recall.<br/>24 <b>Q. Okay. Well, in fairness to you, you said</b><br/>25 <b>you didn't read Mr. Kosinski's declaration and -- and</b></p>               | <p style="text-align: right;">Page 240</p> <p>1 <b>Did you say you don't know?</b><br/>2 A. I don't know.<br/>3 <b>Q. But you do understand that Mr. Davis was</b><br/>4 <b>working for 777 or Suttonpark up until his resignation</b><br/>5 <b>that I believe you testified was effective some time</b><br/>6 <b>in late April of 2024, correct?</b><br/>7 A. April 2024, yes.<br/>8 <b>Q. Okay. And do you have an understanding as</b><br/>9 <b>to whether or not Mr. Davis -- Mr. Davis's company is</b><br/>10 <b>still under contract with Saiph?</b><br/>11 A. I don't know.<br/>12 <b>Q. Well, if I were to represent to you that</b><br/>13 <b>Mr. Davis was let go as soon as Saiph found out</b><br/>14 <b>information about the alleged physical intrusion,</b><br/>15 <b>that -- would you have any reason to doubt that?</b><br/>16 MR. PELLEGRINO: Objection to form.<br/>17 THE WITNESS: No, I wouldn't.<br/>18 BY MR. MORLAN:<br/>19 <b>Q. And if Mr. Kosinski also swore to that in</b><br/>20 <b>his sworn declaration submitted to the court, would</b><br/>21 <b>that have some bearing on your understanding of that</b><br/>22 <b>issue?</b><br/>23 MR. PELLEGRINO: Objection to form.<br/>24 THE WITNESS: Yes.<br/>25 BY MR. MORLAN:</p>                                                                                                                                                    |
| <p style="text-align: right;">Page 239</p> <p>1 I think it may have been in there.<br/>2 <b>Have you seen the consulting agreement</b><br/>3 <b>between Saiph and Noah Davis's company, The Tyler</b><br/>4 <b>Durden Group?</b><br/>5 A. No, I have not.<br/>6 <b>Q. If you were to see such an agreement and</b><br/>7 <b>that agreement were authenticated and sworn to as the</b><br/>8 <b>relationship between Saiph and Mr. Davis, would that</b><br/>9 <b>have any potential bearing on whether or not</b><br/>10 <b>Mr. Davis -- your understanding of whether Mr. Davis</b><br/>11 <b>is an employee or a contractor?</b><br/>12 MR. PELLEGRINO: Objection to form.<br/>13 THE WITNESS: I think it would.<br/>14 BY MR. MORLAN:<br/>15 <b>Q. And was Mr. Davis an employee or a</b><br/>16 <b>contractor for 777 and Suttonpark when he was the</b><br/>17 <b>director of IT before his resignation?</b><br/>18 A. I believe he was an employee.<br/>19 <b>Q. And do you know approximately how long</b><br/>20 <b>Mr. Davis worked for Suttonpark?</b><br/>21 A. I -- I knew it at one point. I -- I can't<br/>22 recall.<br/>23 <b>Q. Was it more than 5 years?</b><br/>24 A. I don't know.<br/>25 <b>Q. I'm sorry, there's a little bit of delay.</b></p> | <p style="text-align: right;">Page 241</p> <p>1 <b>Q. What factual information do you have about</b><br/>2 <b>Mr. Davis, besides the Mazur report and information</b><br/>3 <b>from Mr. Taheri, that relates to whether or not</b><br/>4 <b>Mr. Davis performed the intrusions at issue in this</b><br/>5 <b>litigation?</b><br/>6 MR. PELLEGRINO: Objection to form.<br/>7 THE WITNESS: No other data.<br/>8 BY MR. MORLAN:<br/>9 <b>Q. And with respect to Mr. Kosinski, other than</b><br/>10 <b>the information contained in Mr. Mazur's report and</b><br/>11 <b>any of the forensic evidence identified or looked at</b><br/>12 <b>by Mr. Taheri, is there any -- is there any</b><br/>13 <b>information that you're aware of that reflects</b><br/>14 <b>Mr. Kosinski's involvement in any of the incursions</b><br/>15 <b>that have been alleged in this litigation?</b><br/>16 MR. PELLEGRINO: Objection to form.<br/>17 THE WITNESS: No, there is not.<br/>18 BY MR. MORLAN:<br/>19 <b>Q. And with respect to Leadenhall, other than</b><br/>20 <b>the information contained in Mr. Mazur's report and</b><br/>21 <b>any forensic evidence that Mr. Taheri might have</b><br/>22 <b>uncovered, is there any other evidence of Leadenhall's</b><br/>23 <b>involvement or role in any of the intrusions alleged</b><br/>24 <b>to have been committed by Mr. Davis in this</b><br/>25 <b>litigation?</b></p> |

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| <p style="text-align: right;">Page 242</p> <p>1 MR. PELLEGRINO: Objection to form.</p> <p>2 THE WITNESS: We're relying on the data</p> <p>3 from -- from those reports from Leadenhall.</p> <p>4 BY MR. MORLAN:</p> <p>5 Q. Okay. But as we sit here today, you're not</p> <p>6 aware of any forensic data that links Leadenhall to</p> <p>7 the incursions that Mr. Mazur identified, correct?</p> <p>8 A. No, no.</p> <p>9 Q. I mean -- do you mean, no, I'm incorrect,</p> <p>10 or, no, there's no other information?</p> <p>11 A. No, there's no other information.</p> <p>12 Q. Okay. And did you have an opportunity to</p> <p>13 review Saiph's and Kosinski's expert, Mr. Rohr's</p> <p>14 report in this matter?</p> <p>15 A. Yes, I did.</p> <p>16 Q. Okay. Was there anything in Mr. Rohr's</p> <p>17 report that Mr. Mazur disagreed with that you're aware</p> <p>18 of?</p> <p>19 A. Not that I'm aware of.</p> <p>20 Q. Okay. Do you know whether he testified to</p> <p>21 as much in his deposition?</p> <p>22 A. I do not know that.</p> <p>23 Q. Are there any conclusions with respect to</p> <p>24 Mr. Rohr's report that you disagree with?</p> <p>25 A. I have no reason to disagree with Mr. Rohr.</p> | <p style="text-align: right;">Page 244</p> <p>1 (A recess was taken.)</p> <p>2 THE VIDEOGRAPHER: Okay. We're back on the</p> <p>3 record. The time is 6:38.</p> <p>4 BY MR. MORLAN:</p> <p>5 Q. Are you aware of any searches that were done</p> <p>6 to see if there was any communication with Noah Davis</p> <p>7 and 777 or Suttonpark after the conclusion of his</p> <p>8 employment?</p> <p>9 MR. PELLEGRINO: Objection to form.</p> <p>10 THE WITNESS: I'm not aware of any.</p> <p>11 BY MR. MORLAN:</p> <p>12 Q. And -- and by the way, for purposes of</p> <p>13 this -- although it's a little late, but when I say</p> <p>14 "the companies" or when I say "777 or Suttonpark,"</p> <p>15 we're talking about it collectively as it relates to</p> <p>16 this litigation and that's the understanding. But if</p> <p>17 for some reason you think that there's need to make a</p> <p>18 distinction between Suttonpark and 777 as to a</p> <p>19 particular issue, you'll just let me know. Fair</p> <p>20 enough?</p> <p>21 A. Fair.</p> <p>22 Q. Okay. Have you personally had any</p> <p>23 communications with Noah Davis ever?</p> <p>24 A. No.</p> <p>25 Q. Do you know anything about Mr. Davis's last</p> |
| <p style="text-align: right;">Page 243</p> <p>1 Q. And I believe that you said when Mr. Davis</p> <p>2 left 777 and Suttonpark, there was an effort to revoke</p> <p>3 Mr. Davis's credentials so that he would no longer</p> <p>4 have access to 777 and Suttonpark systems; is that</p> <p>5 right?</p> <p>6 A. I don't think I testified that. That might</p> <p>7 have been Mr. Taheri. I know they --</p> <p>8 Q. Well, is that your understanding?</p> <p>9 A. Yes, that's my understanding, yes.</p> <p>10 Q. Okay. I apologize if I conflated yours with</p> <p>11 Mr. Taheri's.</p> <p>12 MR. MORLAN: Let's -- let's take a quick</p> <p>13 break.</p> <p>14 MR. PELLEGRINO: Sure.</p> <p>15 MR. MORLAN: Unless somebody needs more,</p> <p>16 just 5 minutes. I need to use the restroom.</p> <p>17 MR. PELLEGRINO: Sure.</p> <p>18 THE VIDEOGRAPHER: Okay. Going off the</p> <p>19 record. The time --</p> <p>20 MR. MORLAN: Does anybody need more than 5</p> <p>21 or are we good?</p> <p>22 MR. STARR: 5 is fine.</p> <p>23 THE WITNESS: 5's fine.</p> <p>24 THE VIDEOGRAPHER: Going off the record.</p> <p>25 The time is 6:23.</p>                                                                              | <p style="text-align: right;">Page 245</p> <p>1 performance review?</p> <p>2 A. No.</p> <p>3 Q. Okay. Do you know how long 777 retains</p> <p>4 copies of the MPFin backup system?</p> <p>5 MR. PELLEGRINO: Objection to form.</p> <p>6 MR. MORLAN: What's your objection?</p> <p>7 MR. PELLEGRINO: So there's -- there's -- as</p> <p>8 you know, there's various systems that maintain</p> <p>9 backups and in different formats. And in order</p> <p>10 for Mr. Shapiro to understand it, you might need</p> <p>11 to be more specific.</p> <p>12 MR. MORLAN: I said MPFin.</p> <p>13 BY MR. MORLAN:</p> <p>14 Q. All right.</p> <p>15 MR. PELLEGRINO: That's not --</p> <p>16 BY MR. MORLAN:</p> <p>17 Q. I'm going to try this, and just tell me if</p> <p>18 you don't understand.</p> <p>19 You know what I mean what I say "MPFin,"</p> <p>20 right?</p> <p>21 A. I do.</p> <p>22 Q. Okay. And you understand that backup files</p> <p>23 are made of the data in MPFin, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. And those backup files are one of the</p>                                                                                                                                                   |

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| <p style="text-align: right;">Page 246</p> <p>1 things that happens to those backup files is they are</p> <p>2 transmitted to a company called Vervent (phonetic),</p> <p>3 right?</p> <p>4 A. Correct.</p> <p>5 Q. Do you know how long Vervent keeps backup</p> <p>6 copies of MPFin?</p> <p>7 A. I don't.</p> <p>8 Q. Okay. Do you know how long 777 and</p> <p>9 Suttonpark keep backup copies of MPFin?</p> <p>10 A. I do not.</p> <p>11 Q. Okay. As you sit here today, do you know</p> <p>12 whether 777 and Suttonpark have in their possession</p> <p>13 any copies of MPFin from 2022?</p> <p>14 A. I don't know.</p> <p>15 Q. Who would -- how would you find out that</p> <p>16 information if you wanted to know?</p> <p>17 A. I would probably ask Shawn Taheri.</p> <p>18 Q. Okay. Is there anyone else you would ask</p> <p>19 besides Mr. Taheri?</p> <p>20 A. At this point, probably not.</p> <p>21 Q. Okay. Do you know of any efforts that were</p> <p>22 made in this litigation to prevent potentially</p> <p>23 relevant files from being deleted?</p> <p>24 A. I do not.</p> <p>25 Q. Okay. Do you know of any modifications to</p>                                     | <p style="text-align: right;">Page 248</p> <p>1 dealing with this, correct?</p> <p>2 A. And any -- that plus any remediation cost to</p> <p>3 remediate the system, yes.</p> <p>4 Q. Okay. What -- what have been the</p> <p>5 remediation costs to remediate the system?</p> <p>6 A. I wouldn't know, but I believe there were</p> <p>7 some.</p> <p>8 Q. What -- what has been done to actually</p> <p>9 remediate the system?</p> <p>10 A. That would be in Shawn -- you'd have to ask</p> <p>11 Shawn.</p> <p>12 Q. Okay. So if Shawn testified that nothing</p> <p>13 had been done specifically to remediate the system,</p> <p>14 would you have any reason to disagree with that?</p> <p>15 MR. PELLEGRINO: Objection to form.</p> <p>16 THE WITNESS: I would not.</p> <p>17 BY MR. MORLAN:</p> <p>18 Q. Have you ever discussed with anyone at 777</p> <p>19 or Suttonpark the data integrity of the MPFin system?</p> <p>20 A. In general terms with Jim Howard and Teresa</p> <p>21 Licamora. But it had more to do with the validity of</p> <p>22 the data that's in the system as opposed to the system</p> <p>23 itself.</p> <p>24 Q. Okay. Tell me what you mean when you say</p> <p>25 the validity of the data and the system?</p>                                                                                                                                                                |
| <p style="text-align: right;">Page 247</p> <p>1 any company retention policies were made for the</p> <p>2 purposes of this litigation?</p> <p>3 A. I do not.</p> <p>4 Q. Do you know whether the company has any</p> <p>5 retention policies?</p> <p>6 A. I believe they do. I don't know the</p> <p>7 specifics.</p> <p>8 Q. Okay. So as you sit here today, you're not</p> <p>9 aware of the -- any retention policies with respect to</p> <p>10 the MPFin backup data, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And are you familiar with what's actually</p> <p>13 contained within an MPFin backup?</p> <p>14 A. I'm not.</p> <p>15 Q. Are you familiar with any previous issues</p> <p>16 with the stability or operability or integrity of the</p> <p>17 MPFin system?</p> <p>18 A. I'm not aware of any.</p> <p>19 Q. I believe you said that you think that</p> <p>20 damages in this matter that you're aware of so far to</p> <p>21 your client are about \$600,000?</p> <p>22 A. 600 and growing.</p> <p>23 Q. Okay. And that essentially involves</p> <p>24 attorneys' fees, expert costs, and the costs for B.</p> <p>25 Riley personnel who are investigating or otherwise</p> | <p style="text-align: right;">Page 249</p> <p>1 A. This goes into the investigation of -- of</p> <p>2 the portfolio at Suttonpark, whether assets exist or</p> <p>3 not. So those would be the discussions I had with Jim</p> <p>4 Howard. If there's an asset listed in -- in MPFin in</p> <p>5 one database, is it also included in another base --</p> <p>6 database. You know, the things that were alleged in</p> <p>7 the -- in the -- in the Leadenhall investigation.</p> <p>8 Q. Okay. Are you familiar with any</p> <p>9 discrepancies that were uncovered between any data in</p> <p>10 MPFin and the company's accounting records that were</p> <p>11 identified during the course and scope of the audit?</p> <p>12 A. I'm unaware. I mean, I -- I don't know.</p> <p>13 Q. Okay.</p> <p>14 A. There could -- there could have been.</p> <p>15 Q. If there were some evidence of that, is that</p> <p>16 something that you think should be investigated</p> <p>17 further?</p> <p>18 MR. PELLEGRINO: Objection to form.</p> <p>19 THE WITNESS: Yes. It -- it really depends</p> <p>20 on whether it's a system issue or whether it's a</p> <p>21 timing issue or reconciliation issue. It'd have</p> <p>22 to -- I'd have -- probably have to know more facts</p> <p>23 about what would cause the differences.</p> <p>24 BY MR. MORLAN:</p> <p>25 Q. Okay. And are you aware of any information</p> |

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| <p style="text-align: right;">Page 250</p> <p>1 in -- that came out of the audit that suggested that</p> <p>2 there was evidence of a divergence between accounting</p> <p>3 data and MPFin data?</p> <p>4 MR. PELLEGRINO: Objection to form.</p> <p>5 THE WITNESS: I'm not -- I'm not aware of</p> <p>6 the specifics, no.</p> <p>7 BY MR. MORLAN:</p> <p>8 Q. But you are aware of it generally, just not</p> <p>9 the specifics?</p> <p>10 A. Yes, correct.</p> <p>11 Q. Okay. Can you tell me what you -- what you</p> <p>12 are aware of with respect to any conflicts between the</p> <p>13 accounting data and the MPFin system?</p> <p>14 A. What I've -- what I've heard is historically</p> <p>15 there's been difficulties in reconciling the MPFin</p> <p>16 data to the accounting data. It's actually sometimes</p> <p>17 not unusual that operating systems don't easily</p> <p>18 reconcile to financial systems. We've seen that in</p> <p>19 other companies as well.</p> <p>20 Q. Okay. And -- and when that's a problem, is</p> <p>21 it typically that the accounting records need to be</p> <p>22 changed or the operating system needs to be changed or</p> <p>23 what's your experience in that regard?</p> <p>24 A. It could be either. It -- it -- it goes</p> <p>25 both ways.</p> | <p style="text-align: right;">Page 252</p> <p>1 A. I'm aware that there are proceedings. I'm</p> <p>2 not aware of the details.</p> <p>3 Q. Same question with respect to Steve Pasko?</p> <p>4 A. Same answer. I'm aware of -- aware of</p> <p>5 the -- the proceedings, not aware of the details.</p> <p>6 Q. Okay. Are you aware of any criminal</p> <p>7 proceedings or investigations that relate to 777 or</p> <p>8 Suttonpark that do not involve Josh Wander or Steve</p> <p>9 Pasko?</p> <p>10 A. No.</p> <p>11 Q. Are you -- is there anyone, other than Josh</p> <p>12 Wander or Steve Pasko, that you have any reason to</p> <p>13 believe may be the subject of any criminal -- pending</p> <p>14 criminal proceedings or investigations?</p> <p>15 A. No. Again, I don't know who the targets</p> <p>16 are.</p> <p>17 Q. So as you sit here today, other than Josh</p> <p>18 Wander and Steve Pasko, you're not aware of any other</p> <p>19 potential targets at 777 or Suttonpark, including</p> <p>20 former employees; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. Were you involved in any discussions with</p> <p>23 law enforcement concerning Noah Davis's entry into --</p> <p>24 alleged entry into (Zoom interference)?</p> <p>25 A. I was not.</p> |
| <p style="text-align: right;">Page 251</p> <p>1 Q. Okay. And with respect to the MPFin and</p> <p>2 accounting records, reconciliation with respect to</p> <p>3 777/Suttonpark, does that look more like an MPFin</p> <p>4 issue or an accounting records issue?</p> <p>5 A. I don't -- I don't know.</p> <p>6 Q. Okay. If you wanted to find out more about</p> <p>7 that, who would you talk to?</p> <p>8 A. Most likely Teresa Licamora. Kevin Cronin,</p> <p>9 who's the controller at 777. Could be one of the</p> <p>10 other accountants that are responsible for reconciling</p> <p>11 those systems.</p> <p>12 Q. Okay. So you -- you would definitely want</p> <p>13 to talk to somebody in a controller or accounting type</p> <p>14 of function to be able to provide additional</p> <p>15 information and insight into issues like that?</p> <p>16 A. Correct.</p> <p>17 Q. But you haven't had those discussions yet at</p> <p>18 this point, have you?</p> <p>19 A. I have not.</p> <p>20 Q. Did you say no? I'm sorry. I couldn't hear</p> <p>21 you.</p> <p>22 A. I have not.</p> <p>23 Q. Thanks.</p> <p>24 Are you aware of any pending criminal</p> <p>25 proceedings or investigations involving Josh Wander?</p>                                                                        | <p style="text-align: right;">Page 253</p> <p>1 THE COURT REPORTER: I'm sorry, I missed the</p> <p>2 last word. Alleged entry into what?</p> <p>3 MR. MORLAN: Suttonpark's office.</p> <p>4 THE COURT REPORTER: Thank you.</p> <p>5 And what was your answer?</p> <p>6 THE WITNESS: I was not.</p> <p>7 BY MR. MORLAN:</p> <p>8 Q. Okay. Have -- have any of your</p> <p>9 investigations or the police investigation revealed</p> <p>10 any evidence that Kosinski, Saiph, or Leadenhall had</p> <p>11 anything to do with the alleged physical intrusion of</p> <p>12 Noah Davis into Suttonpark's office?</p> <p>13 A. Not that I'm aware.</p> <p>14 Q. Is there anybody who would have better</p> <p>15 information about that than you?</p> <p>16 A. I don't know. Maybe someone in the legal</p> <p>17 department. I don't know.</p> <p>18 Q. Do you have any information regarding any --</p> <p>19 anything that Davis might have done to assist</p> <p>20 Suttonpark, 777, or any employee following his</p> <p>21 resignation?</p> <p>22 A. Can you say that again?</p> <p>23 Q. Yeah.</p> <p>24 Do you have any information regarding any</p> <p>25 assistance that Davis might have provided to any</p>                                                                   |

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| <p style="text-align: right;">Page 254</p> <p><b>1 Suttonpark or 777 employee following his separation of</b><br/> <b>2 employment with the companies?</b><br/> <b>3 MR. PELLEGRINO:</b> Objection to form.<br/> <b>4 THE WITNESS:</b> What kind of assistance?<br/> <b>5 BY MR. MORLAN:</b><br/> <b>6 Q. Any sort of assistance, business type</b><br/> <b>7 assistance.</b><br/> <b>8 A.</b> No, I am not.<br/> <b>9 Q. Do you know whether Mr. Taheri ever</b><br/> <b>10 contacted Mr. Davis for help with any issues with</b><br/> <b>11 respect to Mr. Taheri performing his job functions?</b><br/> <b>12 A.</b> I do not, no.<br/> <b>13 Q. Do you know whether Mr. Davis has done any</b><br/> <b>14 work for any 777 portfolio companies since the</b><br/> <b>15 separation of his formal employment back in April of</b><br/> <b>16 2024?</b><br/> <b>17 A.</b> I do not.<br/> <b>18 Q. Is there a portfolio company called Sutton</b><br/> <b>19 Place or something to that effect?</b><br/> <b>20 A.</b> No. Sutton Place? No, I don't know that<br/> <b>21 one.</b><br/> <b>22 Q. Sutton Point?</b><br/> <b>23 A.</b> No, don't know that one.<br/> <b>24 Q. Are there any entities with Sutton in the</b><br/> <b>25 name besides the entity in this lawsuit, Suttonpark?</b></p>                                                                                                                                                         | <p style="text-align: right;">Page 256</p> <p><b>1 for Sutton National?</b><br/> <b>2 MR. PELLEGRINO:</b> Objection to form.<br/> <b>3 THE WITNESS:</b> I don't have any reason to<br/> <b>4 believe that he did or he didn't.</b><br/> <b>5 BY MR. MORLAN:</b><br/> <b>6 Q. Okay. Would it concern you if Mr. Davis had</b><br/> <b>7 done some work for Sutton National?</b><br/> <b>8 A.</b> I'd have to understand the timing. Was it<br/> <b>9 right after he left. You know, who hired him. What</b><br/> <b>10 was the -- I -- it -- it would really depend.</b><br/> <b>11 Q. Mm-hmm.</b><br/> <b>12 Does Sutton National have anything to do</b><br/> <b>13 with Leadenhall?</b><br/> <b>14 A.</b> I don't believe so.<br/> <b>15 Q. And do you have any information that</b><br/> <b>16 suggests that Saiph or Kosinski attempted to conceal</b><br/> <b>17 Mr. Davis's involvement from Suttonpark and 777 with</b><br/> <b>18 respect to his role as an IT consultant with The Tyler</b><br/> <b>19 Durden Group under contract with Saiph?</b><br/> <b>20 A.</b> I have no reason to believe he hid anything.<br/> <b>21 Q. And with respect to Mr. Mazur's third</b><br/> <b>22 report, does that -- have you reviewed that third</b><br/> <b>23 report dated on or about February 12th of 2025?</b><br/> <b>24 A.</b> Briefly, yes.<br/> <b>25 Q. Okay. And does that concern an intrusion</b></p> |
| <p style="text-align: right;">Page 255</p> <p><b>1 A.</b> There's an -- there's an insurance company<br/> <b>2 called Sutton National.</b><br/> <b>3 Q. Ah, Sutton National. Okay.</b><br/> <b>4 What does Sutton National do, and does it</b><br/> <b>5 have anything to do with this case?</b><br/> <b>6 A.</b> No, it does not.<br/> <b>7 Q. Okay. What does it do?</b><br/> <b>8 A.</b> It's an insurance company.<br/> <b>9 Q. What kind of insurance?</b><br/> <b>10 A.</b> I think it's life insurance.<br/> <b>11 Q. Okay. And do you know whether Mr. Davis has</b><br/> <b>12 performed any work for Sutton National since the</b><br/> <b>13 formal separation of his employment with the</b><br/> <b>14 companies?</b><br/> <b>15 A.</b> I do not. I don't know.<br/> <b>16 Q. If you wanted to find out information about</b><br/> <b>17 whether Mr. Davis had performed any work for any 777</b><br/> <b>18 portfolio companies, including Sutton National, how</b><br/> <b>19 would you go about finding that information?</b><br/> <b>20 A.</b> If it was technology driven, I would ask<br/> <b>21 Shawn Taheri. I could look -- talk to accounting to</b><br/> <b>22 see if he was paid or how he was paid, consulting or</b><br/> <b>23 payroll. A few different area -- avenues I would go.</b><br/> <b>24 Q. Okay. And as you sit here today, you don't</b><br/> <b>25 have any reason to doubt that Mr. Davis did some work</b></p> | <p style="text-align: right;">Page 257</p> <p><b>1 that's alleged to have occurred on or about</b><br/> <b>2 December 22nd, 2024?</b><br/> <b>3 A.</b> Yes, correct.<br/> <b>4 Q. Okay. And when did you learn about that</b><br/> <b>5 December 22nd, 2024, potential intrusion?</b><br/> <b>6 A.</b> Pretty close to that date.<br/> <b>7 Q. Okay. And do you know why Mr. Mazur did not</b><br/> <b>8 reference that incident in his report dated 10 days</b><br/> <b>9 later, January 2nd, 2025?</b><br/> <b>10 A.</b> I don't know.<br/> <b>11 Q. Do you know whether he was instructed by</b><br/> <b>12 anybody to keep that out of his report?</b><br/> <b>13 A.</b> I don't know that.<br/> <b>14 Q. Do you have any reason to believe that Saiph</b><br/> <b>15 or Kosinski had anything to do with the December 22nd,</b><br/> <b>16 2024, alleged incursion?</b><br/> <b>17 A.</b> No, I don't.<br/> <b>18 Q. Do you have any reason to believe that</b><br/> <b>19 Leadenhall was involved in any way with respect to the</b><br/> <b>20 alleged December 22, 2024, incursion?</b><br/> <b>21 A.</b> I do not.<br/> <b>22 Q. Do you know of any data that was actually</b><br/> <b>23 obtained during the 2024 -- December 22 of 2024</b><br/> <b>24 alleged incursion?</b><br/> <b>25 A.</b> I do not.</p>                                                                                          |

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| <p style="text-align: right;">Page 258</p> <p><b>1 Q. What information was available to you at the</b><br/> <b>2 time of the decision that was made to suspended</b><br/> <b>3 Saiph's access to the MPFin data for the audit</b><br/> <b>4 purposes on or about August 14th, 2024?</b><br/> 5 A. Well, we knew the CrowdStrike notice was<br/> 6 triggered on that. It showed that the intrusion was<br/> 7 made by -- I believe it was Noah Davis at that point<br/> 8 in time with -- with the credentials. He was -- based<br/> 9 on your -- what you're saying, he was a consultant for<br/> 10 Saiph. The audit was going on. And at that point we<br/> 11 didn't know the extent of anything. So the decision<br/> 12 was made to pull the credentials and let's do an<br/> 13 investigation and try and figure out what happened.<br/> <b>14 Q. But you would consider that CrowdStrike</b><br/> <b>15 notification pretty compelling evidence, wouldn't you?</b><br/> 16 A. Yes.<br/> <b>17 Q. Because the -- the -- the CrowdStrike update</b><br/> <b>18 I believe specifically said that Noah Davis's old</b><br/> <b>19 CrowdStrike credentials were used as part of the</b><br/> <b>20 intrusion, correct?</b><br/> 21 A. Correct.<br/> <b>22 Q. Okay. So at that point, is it your</b><br/> <b>23 testimony that you had a good faith basis to suspect</b><br/> <b>24 that Mr. Davis was the one responsible for that</b><br/> <b>25 intrusion?</b></p> | <p style="text-align: right;">Page 260</p> <p>1 when they were notified. So probably a week later or<br/> 2 so. I don't know the exact dates, but it was shortly<br/> 3 after the -- the CrowdStrike notification.<br/> <b>4 Q. Well, if I were to represent to you that I</b><br/> <b>5 am unaware of any notification to Saiph or Leadenhall</b><br/> <b>6 that Mr. Davis was a security risk and was suspected</b><br/> <b>7 of being the vector for these intrusions, that no</b><br/> <b>8 information was shared as to that until the filing of</b><br/> <b>9 the lawsuit. Would you have any reason to disagree</b><br/> <b>10 with that?</b><br/> 11 A. Well, what I was talking about was the<br/> 12 notification that we have -- you know, we have a<br/> 13 problem. There -- I -- I think the original e-mail,<br/> 14 we have some technical issues. There were some<br/> 15 e-mails back and forth, what does that really mean.<br/> 16 But we were trying to figure out what exactly<br/> 17 happened.<br/> <b>18 Q. So but you didn't actually say -- you didn't</b><br/> <b>19 notify Saiph that Davis was a potential security risk</b><br/> <b>20 at that point, did you?</b><br/> 21 A. I don't know when we notified them of that.<br/> <b>22 Q. Okay. Are you aware of any evidence that</b><br/> <b>23 you notified Saiph or Leadenhall that Mr. Davis was</b><br/> <b>24 responsible for the intrusions prior to filing the</b><br/> <b>25 lawsuit?</b></p> |
| <p style="text-align: right;">Page 259</p> <p>1 A. We had good faith basis that he was<br/> 2 responsible for that intrusion, but we didn't know<br/> 3 what other intrusions there were and who did anything.<br/> 4 That was kind of the initial point of -- you know, we<br/> 5 knew something happened and Noah did something. We<br/> 6 didn't know who did what, when they did it, and to the<br/> 7 extent what was done.<br/> <b>8 Q. But you felt like in the exercise of your</b><br/> <b>9 business judgment and acting in good faith, that you</b><br/> <b>10 had sufficient reason to prevent Noah Davis from</b><br/> <b>11 having access -- further access to any of your systems</b><br/> <b>12 at that point, correct?</b><br/> 13 A. I think our decision was to prevent Saiph in<br/> 14 general from having any access to our systems at that<br/> 15 point in time.<br/> <b>16 Q. Okay. But that was based on an incursion</b><br/> <b>17 that you allege was performed by Noah Davis using Noah</b><br/> <b>18 Davis's credentials, correct?</b><br/> 19 A. Correct.<br/> <b>20 Q. When did you first notify Saiph and</b><br/> <b>21 Leadenhall that you suspected that Noah Davis was a</b><br/> <b>22 security risk?</b><br/> 23 A. I don't know the exact date. I remember<br/> 24 seeing some e-mails going back and forth on when to<br/> 25 notify, how to notify. It was mid August when it --</p>                                       | <p style="text-align: right;">Page 261</p> <p>1 A. I haven't seen any, no.<br/> <b>2 Q. I'm sorry?</b><br/> 3 A. I haven't seen any, no. I'm not aware of<br/> 4 any.<br/> <b>5 Q. You haven't seen any?</b><br/> 6 A. I'm not aware of any.<br/> <b>7 Q. Would you consider it standard in a cyber</b><br/> <b>8 security investigation that -- would you identify a</b><br/> <b>9 security vulnerability that that information may need</b><br/> <b>10 to be shared with other parties?</b><br/> 11 A. I think we want to share the information<br/> 12 once we knew exactly what happened. I think there was<br/> 13 an investigation going on and we weren't exactly aware<br/> 14 of what happened. Probably still aren't aware of<br/> 15 everything that happened.<br/> <b>16 Q. I understand that what you're saying is the</b><br/> <b>17 investigation wasn't finished. But I think you told</b><br/> <b>18 me that you had some compelling direct evidence that</b><br/> <b>19 somebody using Davis's credentials and Davis's IP</b><br/> <b>20 address was responsible for the incursions, correct?</b><br/> 21 A. For that one incursion. All we knew was<br/> 22 that one incursion at that point.<br/> <b>23 Q. Okay.</b><br/> 24 A. On August 9th.<br/> <b>25 Q. When did you learn of the other incursions?</b></p>                                                                                                                                                 |

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| <p style="text-align: right;">Page 262</p> <p>1 A. The investigation went on. I don't know the<br/>2 exact dates of when they discovered the other<br/>3 incursions, but that followed from that August 9th<br/>4 trigger.<br/>5 <b>Q. I mean, did it take more than a week to<br/>6 identify the other potential Davis intrusions?</b><br/>7 A. I don't know. I don't recall the timeline<br/>8 at this point.<br/>9 <b>Q. So as you sit here today, do you have a view<br/>10 as to whether or not it would be appropriate to notify<br/>11 Saiph and Leadenhall that Davis was a suspect?</b><br/>12 A. I don't have -- I don't have a view on that<br/>13 right now. It really depends on the facts and<br/>14 circumstances and the timing and what we knew. And I<br/>15 just don't have an opinion on that.<br/>16 <b>Q. Okay. What information would you need in<br/>17 order to have an opinion on that?</b><br/>18 A. More information on exactly what happened, a<br/>19 more robust investigation. You know, it --<br/>20 ultimate -- ultimately we need more information.<br/>21 <b>Q. So it's been at least 6 months since the<br/>22 last intrusion, correct?</b><br/>23 MR. PELLEGRINO: Objection to form.<br/>24 THE WITNESS: No, the last intrusion was<br/>25 December. So it's been --</p> | <p style="text-align: right;">Page 264</p> <p>1 <b>additional work?</b><br/>2 A. At this point, no.<br/>3 <b>Q. Have you directed Mr. Taheri to do any<br/>4 additional investigation?</b><br/>5 A. No.<br/>6 <b>Q. What additional information do you think you<br/>7 would need as far as any additional investigation?</b><br/>8 A. Well, I'd have to know what -- what they<br/>9 think they could find and how much it's going to cost.<br/>10 <b>Q. What they think they could find where?</b><br/>11 A. On the systems. What would -- what would<br/>12 additional forensics -- what could they possibly find.<br/>13 You'd have to talk to them.<br/>14 <b>Q. Okay. So was it -- so it's your<br/>15 understanding then that 6 months after the last<br/>16 intrusion, that you're not sure as you sit here today<br/>17 whether the companies have thoroughly investigated<br/>18 their own systems for evidence relevant to this case?</b><br/>19 A. I'm not sure if there's additional forensics<br/>20 that need to be done. That's my testimony.<br/>21 <b>Q. And if -- do you have any idea what<br/>22 additional forensics would need to be done, other<br/>23 places that need to be looked at on 777 or<br/>24 Suttonpark's data, rocks that need to be turned over?<br/>25 Any of that?</b></p> |
| <p style="text-align: right;">Page 263</p> <p>1 BY MR. MORLAN:<br/>2 <b>Q. Okay. Leaving aside the December one that I<br/>3 believe you testified that you don't have any reason<br/>4 to believe Leadenhall or Paul. We're talking about<br/>5 the last alleged intrusion by Mr. Davis. I believe<br/>6 that was August 9th, 2024; is that correct?</b><br/>7 A. I'm not sure it was the last one. It would<br/>8 be on or around then, yes.<br/>9 <b>Q. Okay. So would you agree with me or<br/>10 disagree with me that it's been approximately 6 months<br/>11 since August 9th, 2024, until today?</b><br/>12 A. Correct.<br/>13 <b>Q. Okay. So having had 6 months to investigate<br/>14 this alleged major data security breach, is it your<br/>15 testimony that further investigative steps are needed<br/>16 at this point?</b><br/>17 MR. PELLEGRINO: Objection to form.<br/>18 THE WITNESS: I'd have to talk to Eric about<br/>19 that. In his report he was saying he -- there's<br/>20 more investigation that would have to happen to<br/>21 determine, you know, exactly what happened to the<br/>22 data. I don't know -- I haven't talked to him<br/>23 about what the next steps would be, if any.<br/>24 BY MR. MORLAN:<br/>25 <b>Q. Have you directed him to perform any</b></p>         | <p style="text-align: right;">Page 265</p> <p>1 A. No, I do not.<br/>2 <b>Q. Okay. Who would have better information<br/>3 about that than you?</b><br/>4 A. Shawn and Eric.<br/>5 <b>Q. Shawn and Eric?</b><br/>6 A. Yeah.<br/>7 <b>Q. Yes?</b><br/>8 A. Yes.<br/>9 <b>Q. And has anybody provided you with any<br/>10 factual information about the circumstances involving<br/>11 Mr. Kosinski departure from 777/Suttonpark?</b><br/>12 A. No, they have not.<br/>13 <b>Q. Okay. And other than a stray comment by<br/>14 somebody saying they didn't trust Mr. Kosinski, do you<br/>15 have any factual basis to determine whether or not<br/>16 Mr. Kosinski is trustworthy or not?</b><br/>17 A. No, I don't, which is why Jim and I allowed<br/>18 Saiph to do the original audit.<br/>19 <b>Q. And do you know whether Mr. Kosinski was<br/>20 competent to perform the audit?</b><br/>21 A. I've heard he's a very competent individual.<br/>22 <b>Q. Okay. So the -- in terms of the complaints<br/>23 about -- or the objections to Mr. Kosinski and Saiph<br/>24 being the ones to do the audit, was there anyone who<br/>25 questioned his ability to properly perform the audit?</b></p>                                                                                                            |

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| <p style="text-align: right;">Page 266</p> <p>1 A. No. Just that he'd be looking at<br/>2 information that he's not entitled to look at because<br/>3 he's working for Leadenhall.<br/>4 <b>Q. And that was the impression that the legacy<br/>5 employees of 777 and Suttonpark informed you of; is<br/>6 that correct?</b><br/>7 A. Current employees, legacy employees, yes.<br/>8 The -- the -- they're current and legacy employees,<br/>9 yes.<br/>10 <b>Q. Okay. And they were the people that were<br/>11 working for 777 and Suttonpark during the events that<br/>12 Leadenhall alleges caused the damage in the New York<br/>13 litigation; is that right?</b><br/>14 A. I think I said before most of them were. I<br/>15 don't believe Chris O'Reilly was.<br/>16 <b>Q. But Chris O'Reilly said that he had a reason<br/>17 not to trust -- trust Paul Kosinski?</b><br/>18 A. I don't remember Chris's opinion of -- of<br/>19 what it went. But I do believe he was in the mix of<br/>20 saying it's not a good idea to have Paul in here.<br/>21 <b>Q. So all of these people seemingly unanimous<br/>22 that it wasn't a good idea to have this competent,<br/>23 knowledgeable auditor audit the books. It sounds like<br/>24 that may have given you some pause; is that right?</b><br/>25 A. I don't say give us -- gave us pause. It's</p> | <p style="text-align: right;">Page 268</p> <p>1 A. Yes, I do.<br/>2 <b>Q. And is it your -- and what is your<br/>3 assessment of the approximate amount of financial loss<br/>4 that's -- that's at play here? And feel free to give<br/>5 a range.</b><br/>6 A. I don't -- I don't want to give a range on<br/>7 it right now. Leadenhall's --<br/>8 <b>Q. All right. Well, give me your best guess.</b><br/>9 A. I mean, Leadenhall thinks they're --<br/>10 MR. PELLEGRINO: Objection to form.<br/>11 THE WITNESS: Leadenhall thinks they're<br/>12 short 300 some-odd million dollars. You know,<br/>13 it's -- it -- I think our number is less than<br/>14 that, but I don't want to give a number.<br/>15 BY MR. MORLAN:<br/>16 <b>Q. Well, I mean, are they off by like serious<br/>17 orders of magnitude or are we taking about the<br/>18 difference between 300 and 287?</b><br/>19 A. It's probably more than that difference, but<br/>20 it's still a large number.<br/>21 <b>Q. Over \$100 million?</b><br/>22 A. Probably.<br/>23 <b>Q. Okay. There's been allegations that<br/>24 Leadenhall has done something improper or overly<br/>25 aggressive in the New York litigation. Is that</b></p>                                                          |
| <p style="text-align: right;">Page 267</p> <p>1 we were -- you know, Jim and I looked at it as what is<br/>2 Leadenhall -- you know, one of our -- one of your<br/>3 mandates is to try to manage litigation. And<br/>4 Leadenhall, per the loan and security agreement, is<br/>5 entitled to collateral audits and a traditional scope<br/>6 of collateral audit. And Jim and I were emphatic<br/>7 that, you know, they're entitled to it. This is what<br/>8 they're going to get.<br/>9 <b>Q. Okay. And do you know as you sit here today<br/>10 whether that collateral audit was favorable or<br/>11 unfavorable to Leadenhall's possession?</b><br/>12 A. I think I said before I haven't seen the<br/>13 results of the collateral audit.<br/>14 <b>Q. Do you think that's something that's<br/>15 important that you might want to find out a little<br/>16 more about?</b><br/>17 A. I -- I will. I mean, it's -- it --<br/>18 everything kind of is. I -- I understand the<br/>19 shortfall and -- and the -- the -- the condition of<br/>20 the portfolio, I'm -- I'm pretty aware of.<br/>21 <b>Q. As you sit here today, do you think that the<br/>22 condition of the portfolio is going to result in<br/>23 financial loss to Leadenhall?</b><br/>24 A. Yes, I do.<br/>25 <b>Q. I'm sorry?</b></p>                                              | <p style="text-align: right;">Page 269</p> <p>1 <b>something that you have any specific information<br/>2 about?</b><br/>3 MR. PELLEGRINO: Objection to form.<br/>4 THE WITNESS: I mean, it's my own opinion.<br/>5 It's -- they've been very aggressive. The<br/>6 litigation itself has impaired value dramatically.<br/>7 I mean, it was a pretty dramatic step to file a<br/>8 litigation, and the public allegations have<br/>9 affected their own -- their own portfolio values<br/>10 in addition to the rest of 777's. I would say<br/>11 it's extremely aggressive what they did.<br/>12 BY MR. MORLAN:<br/>13 <b>Q. What -- what is it that they've done that's<br/>14 extremely aggressive from your perspective?</b><br/>15 MR. PELLEGRINO: Objection to form.<br/>16 THE WITNESS: The public allegations that<br/>17 they filed suit has impacted value in the 777<br/>18 portfolio and their own portfolios tremendously.<br/>19 Potential investors walk away. Potential<br/>20 purchasers of assets walk away. It's impacted<br/>21 every -- every assets we have it's impacted. And<br/>22 it's old -- I'm not saying they're right or<br/>23 they're wrong. I'm saying the filing of the suit<br/>24 has caused a lot of this.<br/>25 BY MR. MORLAN:</p> |



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| <p style="text-align: right;">Page 270</p> <p>1 <b>Q. But let me ask you -- I mean, you have a lot</b><br/> 2 <b>of experience as a manager of -- of companies and</b><br/> 3 <b>managing litigation and -- and triaging assets and</b><br/> 4 <b>liabilities. Do you think if -- if a company you were</b><br/> 5 <b>in charge of potentially lost \$100 million or more</b><br/> 6 <b>based on misrepresentations as to collateral that it's</b><br/> 7 <b>overly aggressive to -- to file suit?</b><br/> 8 A. If it's going to hurt your own portfolio and<br/> 9 to try and resolve it out of court without filing it,<br/> 10 yes, I do think it's aggressive. I'm not a litigator.<br/> 11 Okay? I'm trying to come up with commercial reason --<br/> 12 commercially -- commercial settlements. I don't<br/> 13 believe --<br/> 14 <b>Q. Okay.</b><br/> 15 A. I don't believe --<br/> 16 <b>Q. How long should they wait? How long --</b><br/> 17 <b>what's a reasonable amount of time to wait from the</b><br/> 18 <b>time that you receive information suggesting that you</b><br/> 19 <b>could be experiencing a half a billion dollar loss,</b><br/> 20 <b>what -- what's a reasonable amount of time before you</b><br/> 21 <b>bring a lawsuit? What would you in --</b><br/> 22 A. Look --<br/> 23 <b>Q. -- circumstance --</b><br/> 24 A. Look, I'm well -- I'm --<br/> 25 MR. PELLEGRINO: Objection to form.</p> | <p style="text-align: right;">Page 272</p> <p>1 It's overly aggressive.<br/> 2 <b>Q. Wait. So you'll just change your position</b><br/> 3 <b>from what you told me 30 seconds ago if it contradicts</b><br/> 4 <b>what's in the complaint?</b><br/> 5 A. Yes, I will. It's very aggressive. I --<br/> 6 I -- whether it's aggressive, very aggressive, overly<br/> 7 aggressive, you know, it's aggressive.<br/> 8 <b>Q. Okay. But you said that you are aware of</b><br/> 9 <b>negotiations to try to resolve that issue that went on</b><br/> 10 <b>for 18 to 24 months?</b><br/> 11 A. Yes, I am.<br/> 12 <b>Q. Okay. And how long did -- before you were</b><br/> 13 <b>involved -- in fairness to you, you did the right</b><br/> 14 <b>thing.</b><br/> 15 <b>But before you were involved, how long were</b><br/> 16 <b>the companies thwarting Leadenhall's contractual</b><br/> 17 <b>asset -- access to information about the collateral?</b><br/> 18 A. I'm sorry, what was the question?<br/> 19 <b>Q. The question was: Prior to -- I understand</b><br/> 20 <b>that we're not talking about you because you made the</b><br/> 21 <b>determination, as I understand it, that Leadenhall was</b><br/> 22 <b>entitled to access, and that happened on or about May</b><br/> 23 <b>of 2024, right?</b><br/> 24 A. Yes.<br/> 25 <b>Q. Okay. Essentially at the inception of your</b></p> |
| <p style="text-align: right;">Page 271</p> <p>1 THE WITNESS: I'm well aware that they were<br/> 2 negotiating a forbearance agreement for probably<br/> 3 18 months or 2 years. I'm well aware of that.<br/> 4 Everybody is saying each other -- each party was<br/> 5 unreasonable. And all I'm saying is you asked me<br/> 6 a question, is it aggressive. It's -- it's<br/> 7 impacted the businesses tremendously, long before<br/> 8 I got in. So, you know, a lot of the negotiation<br/> 9 and the delay was before we got there. You asked<br/> 10 me a question and, yes, it's aggressive.<br/> 11 BY MR. MORLAN:<br/> 12 <b>Q. Okay.</b><br/> 13 A. I don't want to say -- I can't tell anybody<br/> 14 how long they should wait.<br/> 15 <b>Q. I -- I -- I guess my question would be: Do</b><br/> 16 <b>you consider it overly aggressive?</b><br/> 17 MR. PELLEGRINO: Objection to form.<br/> 18 THE WITNESS: It's -- we're talking<br/> 19 wordsmithing here. It's aggressive.<br/> 20 BY MR. MORLAN:<br/> 21 <b>Q. Well, I think it says in the complaint that</b><br/> 22 <b>it was overly aggressive. I don't think it just says</b><br/> 23 <b>aggressive. Is that your understanding?</b><br/> 24 A. The complaint speaks for itself. If the<br/> 25 complaint says overly aggressive, that's our position.</p>                                                                                              | <p style="text-align: right;">Page 273</p> <p>1 <b>tenure --</b><br/> 2 A. Correct.<br/> 3 <b>Q. -- right?</b><br/> 4 A. Correct.<br/> 5 <b>Q. Okay. So nobody can, at least logically to</b><br/> 6 <b>me and I don't think anybody has, can -- can really</b><br/> 7 <b>blame B. Riley for Leadenhall not having access to</b><br/> 8 <b>collateral information prior to May of 2024, correct?</b><br/> 9 A. Correct.<br/> 10 <b>Q. But you are aware that Leadenhall was</b><br/> 11 <b>attempting to get access to that information prior to</b><br/> 12 <b>your involvement, correct?</b><br/> 13 A. Yes. I don't know how long, but I do know<br/> 14 that there was a lack of data.<br/> 15 <b>Q. Okay. And that the companies, prior to your</b><br/> 16 <b>good faith involvement and -- and your and</b><br/> 17 <b>Mr. Ratner's decision to do the right thing, they were</b><br/> 18 <b>preventing Leadenhall from having the access that you</b><br/> 19 <b>believed was appropriate under their contract with the</b><br/> 20 <b>companies; is that correct?</b><br/> 21 A. That's my understand --<br/> 22 MR. PELLEGRINO: Objection to form.<br/> 23 THE WITNESS: That's my understanding.<br/> 24 MR. MORLAN: All right. I will take a quick<br/> 25 break here, and then probably wrap it up. I don't</p>                                                                      |

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| <p style="text-align: right;">Page 274</p> <p>1 know if anybody else has anything right now.<br/>2 What --<br/>3 Let's go off the record.<br/>4 THE VIDEOGRAPHER: Going off the record.<br/>5 The time is 7:21.<br/>6 (A recess was taken.)<br/>7 THE VIDEOGRAPHER: We're back on the record,<br/>8 and the time is now 7:35.<br/>9 BY MR. MORLAN:<br/>10 Q. Mr. Shapiro, I want to thank you for your<br/>11 patience and equanimity today. I know this has been a<br/>12 long deposition. And I'm going to try to wrap it up<br/>13 here in just a second.<br/>14 I don't necessarily want to belabor the<br/>15 stuff that -- that has already been covered, but I<br/>16 just want to make sure that I understand.<br/>17 In terms of any evidence linking Saiph,<br/>18 anyone with Saiph, Kosinski, Leadenhall to Davis's<br/>19 intrusions, is there any evidence that we haven't<br/>20 talked about today? Is there any other evidence<br/>21 that -- that you rely on for that connection or your<br/>22 assessment that -- that you're aware of that you could<br/>23 testify to --<br/>24 A. Not --<br/>25 Q. -- today?</p> | <p style="text-align: right;">Page 276</p> <p>1 declaration.<br/>2 BY MR. MORLAN:<br/>3 Q. Well, that's -- okay.<br/>4 Well, if you'll take a look at Exhibit E<br/>5 when you have a chance. I'm not going to subject you<br/>6 to -- to looking at it right now because it's big,<br/>7 it's going to be hard to share, and -- and we don't<br/>8 have a lot of time.<br/>9 But I will represent to you that what was<br/>10 recently received is those audit materials and there<br/>11 has been a list of those audit materials as part of<br/>12 the declaration. And so to the extent that you would<br/>13 like to inform yourself about that, that might be a<br/>14 place to -- to start.<br/>15 Is there any other information that you have<br/>16 about the 2022 MPFin September backup file that we<br/>17 talked about earlier that -- that we haven't covered?<br/>18 A. No other information, no.<br/>19 Q. Okay. And other than that, has there been<br/>20 any significant information that you've learned in<br/>21 this lawsuit through course of discovery, through the<br/>22 course of the lawsuit other than what is reflected in<br/>23 the complaint and the amended complaint, your<br/>24 responses to the interrogatories, and what you told us<br/>25 today about this new MPFin 2022 file?</p> |
| <p style="text-align: right;">Page 275</p> <p>1 A. Not that I can recall right now.<br/>2 Q. Okay. Do you need to take a second to<br/>3 refresh your recollection?<br/>4 A. No.<br/>5 Q. Okay. Other than -- I think you -- you<br/>6 mentioned something that -- that was new to me today,<br/>7 which was the -- something about an MPFin from 2022<br/>8 reference?<br/>9 A. Correct.<br/>10 Q. Okay. And just so that I'm -- I'm clear,<br/>11 that wasn't an actual file that you saw, correct?<br/>12 A. Not me, no.<br/>13 Q. Okay. But it was information that Mr. Mazur<br/>14 gave to you in a conversation?<br/>15 A. Correct.<br/>16 Q. Okay. And you believe that was information<br/>17 that was produced recently by Saiph in -- in this<br/>18 litigation?<br/>19 A. That's my understanding, yes.<br/>20 Q. And are you aware that Mr. Kosinski's<br/>21 declaration contains a list of all of the files that<br/>22 were accessed as part of the audit? Were you aware of<br/>23 that?<br/>24 MR. PELLEGRINO: Objection to form.<br/>25 THE WITNESS: Well, I haven't read his</p>                                    | <p style="text-align: right;">Page 277</p> <p>1 A. No. I don't believe there's any other<br/>2 information.<br/>3 Q. Okay. All right. Well, in fairness to you,<br/>4 I'm not sure you had anything to do with it, but as we<br/>5 said earlier, that we did get a whole bunch of files<br/>6 and -- and information and documents at about<br/>7 1 o'clock in the morning last night. So I'm going to<br/>8 reserve the right to ask questions about that if<br/>9 necessary, but that may or may not be necessary. But<br/>10 I'm going to just suspend this deposition and not<br/>11 conclude it pending a final decision on that. And<br/>12 also pending -- I'm also given to understand, based on<br/>13 representations from counsel, that all of the B. Riley<br/>14 documents have also not been produced.<br/>15 Is that all -- is that your understanding as<br/>16 well, that the -- all of the B. Riley documents have<br/>17 not been produced?<br/>18 A. I believe that's in process right now.<br/>19 Q. Okay.<br/>20 MR. MORLAN: All right. So with that, I<br/>21 have nothing further at this time. Subject to my<br/>22 earlier comments and I will suspend the deposition<br/>23 for now, unless anybody else has anything.<br/>24 MR. STARR: I just have one or two more<br/>25 questions.</p>         |

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| <p style="text-align: right;">Page 278</p> <p>1 RECROSS-EXAMINATION</p> <p>2 BY MR. STARR:</p> <p>3 <b>Q. Okay. Mr. Shapiro, you testified earlier</b></p> <p>4 <b>that you're familiar with the condition of</b></p> <p>5 <b>Leadenhall's collateral portfolio?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. How much collateral is left?</b></p> <p>8 A. I don't know that number right now.</p> <p>9 <b>Q. Can you give a ballpark figure?</b></p> <p>10 A. No, I can't.</p> <p>11 <b>Q. And is --</b></p> <p>12 A. I can find it out, but right now I can't do</p> <p>13 that.</p> <p>14 <b>Q. You said over \$100 million earlier?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. I'm sorry, when you -- when you testified</b></p> <p>17 <b>over \$100 million, were you saying that that is the</b></p> <p>18 <b>shortfall or that's how much is left?</b></p> <p>19 A. That was the shortfall.</p> <p>20 <b>Q. Okay. Who would know? You said you could</b></p> <p>21 <b>find out the exact number. Who would you find that</b></p> <p>22 <b>out from?</b></p> <p>23 A. I would work with Jim Howard and Teresa</p> <p>24 Licamora to get our best guess as to what the</p> <p>25 shortfall would be. I think we presented earlier</p> | <p style="text-align: right;">Page 280</p> <p>1 CERTIFICATE</p> <p>2 STATE OF GEORGIA:</p> <p>3 COUNTY OF DeKALB:</p> <p>4</p> <p>5 I hereby certify that the foregoing</p> <p>6 transcript was reported, as stated in the caption,</p> <p>7 and the questions and answers thereto were reduced</p> <p>8 to typewriting under my direction; that the</p> <p>9 foregoing pages represent a true, complete and</p> <p>10 correct transcript of the evidence given upon said</p> <p>11 hearing, and I further certify that I am not of</p> <p>12 kin or counsel to the parties in the case; am not</p> <p>13 in the employ of counsel for any of said parties;</p> <p>14 nor am I in any way interested in the result of</p> <p>15 said case.</p> <p>16</p> <p>17 </p> <p>18</p> <p>19</p> <p>20 Nicole Limoncelli, RPR, CCR-5799-5142-5014-9888</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p style="text-align: right;">Page 279</p> <p>1 numbers to Leadenhall when -- at the mediation</p> <p>2 conference, but we can get updated numbers.</p> <p>3 <b>Q. Okay.</b></p> <p>4 MR. STARR: Thank you for your time. I have</p> <p>5 no further questions.</p> <p>6 THE WITNESS: Thank you.</p> <p>7 THE VIDEOGRAPHER: Anything else?</p> <p>8 MR. PELLEGRINO: I have nothing. Thank you.</p> <p>9 THE VIDEOGRAPHER: Okay. Going off the</p> <p>10 record. The time is 7:42.</p> <p>11 MR. STARR: Thanks, everybody.</p> <p>12 (Discussion ensued off the record.)</p> <p>13 THE COURT REPORTER: Are you ordering the</p> <p>14 transcript?</p> <p>15 MR. STARR: Yes.</p> <p>16 THE COURT REPORTER: Mr. Pellegrino, are you</p> <p>17 ordering a copy?</p> <p>18 MR. PELLEGRINO: Can I let you know?</p> <p>19 THE COURT REPORTER: Yes.</p> <p>20 Mr. Morlan, are you ordering the transcript?</p> <p>21 MR. MORLAN: I'll let you know.</p> <p>22 (Pursuant to Rule 30(e) of the Federal Rules</p> <p>23 of Civil Procedure and/or O.C.G.A. 9-11-30(e),</p> <p>24 signature of the witness has been reserved.)</p> <p>25 (Deposition adjourned at 7:45 p.m.)</p>                                                        | <p style="text-align: right;">Page 281</p> <p>1 DISCLOSURE OF NO CONTRACT</p> <p>2</p> <p>3 I, Nicole Limoncelli, do hereby disclose</p> <p>4 pursuant to Article 10.B of the Rules and</p> <p>5 Regulations of the Board of Court Reporting of the</p> <p>6 Judicial Council of Georgia that Gallo Legal</p> <p>7 Services was contacted by the party taking the</p> <p>8 deposition to provide court reporting services for</p> <p>9 this deposition and there is no contract that is</p> <p>10 prohibited by O.C.G.A. 15-14-37(a) and (b) or</p> <p>11 Article 7.C of the Rules and Regulations of the</p> <p>12 Board for the taking of this deposition.</p> <p>13</p> <p>14 There is no contract to provide court</p> <p>15 reporting services between Gallo Legal Services or</p> <p>16 any person with whom Gallo Legal Services has a</p> <p>17 principal and agency relationship nor any attorney</p> <p>18 at law in this action, party to this action, party</p> <p>19 having a financial interest in this action, or</p> <p>20 agent for an attorney at law in this action, party</p> <p>21 to this action, or party having a financial</p> <p>22 interest in this action. Any and all financial</p> <p>23 arrangements beyond our usual and customary rates</p> <p>24 have been disclosed and offered to all parties.</p> <p>25</p> <p>14 This 5th day of March, 2025.</p> <p>15</p> <p>16 </p> <p>17</p> <p>18</p> <p>19 Nicole Limoncelli, RPR, CCR-5799-5142-5014-9888</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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| <p style="text-align: right; margin: 0;"><b>Page 282</b></p> <p>1 777 Partners LLC, et al. v.</p> <p>2 Leadenhall Capital Partners LLP, et al.</p> <p>3 The preceding deposition was taken in</p> <p>4 the matter, on the date and at the time and</p> <p>5 place set out on the title page hereof.</p> <p>6</p> <p>7 It was requested that the deposition be</p> <p>8 taken by the reporter and that same be reduced</p> <p>9 to typewritten form.</p> <p>10</p> <p>11 It was agreed by and between counsel and</p> <p>12 the parties that the deponent will read and</p> <p>13 sign the transcript of said deposition.</p> <p>14</p> <p>15 Said jurat is to be returned within 30</p> <p>16 days following receipt of the transcript to</p> <p>17 the following address:</p> <p>18</p> <p>19 Universal Court Reporting</p> <p>20 888 East Las Olas Boulevard, Suite 508</p> <p>21 Fort Lauderdale, FL 33301</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                                                                                                                                                                                                            | <p style="text-align: right; margin: 0;"><b>Page 284</b></p> <p style="text-align: center; margin: 0;">DEPOSITION ERRATA SHEET</p> <p>2 Deponent: Mark David Shapiro</p> <p>3 Deposition Date: 3/5/2025</p> <p>4 To Reporter:</p> <p>5 I have read the entire transcript of my</p> <p>6 deposition taken in the captioned matter or</p> <p>7 the same has been read to me. I request that</p> <p>8 the following changes be entered upon the</p> <p>9 record for the reasons indicated. I have</p> <p>10 signed my name to the Errata Sheet and</p> <p>11 appropriate certificate and authorize you to</p> <p>12 attach both to the original transcript.</p> <p>13</p> <p>14 Page No. _____ Line No. _____</p> <p>15 Change to: _____</p> <p>16 Reason for Change: _____</p> <p>17</p> <p>18 Page No. _____ Line No. _____</p> <p>19 Change to: _____</p> <p>20 Reason for Change: _____</p> <p>21</p> <p>22 Page No. _____ Line No. _____</p> <p>23 Change to: _____</p> <p>24 Reason for Change: _____</p> <p>25</p> |
| <p style="text-align: right; margin: 0;"><b>Page 283</b></p> <p style="text-align: center; margin: 0;">CERTIFICATE</p> <p>2 STATE OF _____</p> <p>3 COUNTY/CITY OF _____</p> <p>4</p> <p>5 Before me this day personally appeared</p> <p>6 Mark David Shapiro who, being duly sworn, states</p> <p>7 that the foregoing transcript of his/her</p> <p>8 deposition, taken in the matter, on the date</p> <p>9 and at the time and place set out on the title</p> <p>10 page hereof, constitutes a true and accurate</p> <p>11 transcript of said deposition.</p> <p>12</p> <p>13 _____</p> <p>14</p> <p>15</p> <p>16 SUBSCRIBED and SWORN to before me this</p> <p>17 _____ day of _____ 2024 in the</p> <p>18 jurisdiction aforesaid.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>16 My Commission Expires _____ Notary Public</p> <p>17</p> <p>18</p> <p>19 [ ] No changes made to the Errata Sheet;</p> <p>20 therefore, I am returning only this signed,</p> <p>21 notarized certificate.</p> <p>22</p> <p>23 [ ] I am returning this signed, notarized</p> <p>24 certificate and Errata Sheet with changes</p> <p>25 noted.</p> | <p style="text-align: right; margin: 0;"><b>Page 285</b></p> <p style="text-align: center; margin: 0;">Deposition of Mark David Shapiro</p> <p>2</p> <p>3 Page No. _____ Line No. _____</p> <p>4 Change to: _____</p> <p>5 Reason for Change: _____</p> <p>6</p> <p>7 Page No. _____ Line No. _____</p> <p>8 Change to: _____</p> <p>9 Reason for Change: _____</p> <p>10</p> <p>11 Page No. _____ Line No. _____</p> <p>12 Change to: _____</p> <p>13 Reason for Change: _____</p> <p>14</p> <p>15 Page No. _____ Line No. _____</p> <p>16 Change to: _____</p> <p>17 Reason for Change: _____</p> <p>18</p> <p>19 Page No. _____ Line No. _____</p> <p>20 Change to: _____</p> <p>21 Reason for Change: _____</p> <p>22</p> <p>23</p> <p>24 Signature: _____ Date: _____</p> <p>25 Mark David Shapiro</p>                                                                                                                                                                                                            |

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| <b>\$</b>                                                                       | <b>10:20</b><br>13:1                  | <b>1:00</b><br>10:17 184:10                                                                                                                                                                                            | 214:7 220:15<br>221:2 240:6,7<br>254:16 257:2,5,16,<br>20,23 258:4 263:6,<br>11 272:23 273:8     |
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| <b>\$10</b><br>215:1,12                                                         | <b>10:24</b><br>14:24                 | <b>2</b>                                                                                                                                                                                                               | <b>202405-mpfin</b><br>122:15,22                                                                 |
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| <b>\$50</b><br>215:20                                                           | <b>12</b><br>44:18                    | <b>200,000</b><br>130:24,25 131:5                                                                                                                                                                                      | <b>22nd</b><br>157:20 162:19<br>201:25 202:7<br>257:2,5,15                                       |
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| <b>1</b>                                                                        | <b>12:31</b><br>87:15                 | <b>2023</b><br>24:15 68:20 69:2<br>79:5 94:11                                                                                                                                                                          | <b>24th</b><br>87:3                                                                              |
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| <b>2nd</b><br>119:7 121:3<br>220:15 222:8<br>257:9                                    | 25 220:17<br><b>400,000</b><br>45:11 132:2<br>134:15              | <b>5:47</b><br>220:11                                                           | 16 23:6,10 24:20<br>25:16 26:10,15<br>27:10 28:9 29:2<br>34:5,23 35:10,15,<br>16 36:22,25 40:13<br>42:14 43:3,24<br>44:12,16 45:13,19<br>47:3 52:6 53:13<br>60:6,7 61:17,23<br>62:4,9 63:5,7,14,<br>23,25 64:7,16,17,<br>18 67:13,19 70:9<br>71:5,8,24 73:21<br>77:2 79:9,23,24<br>80:1,12 82:1,8,15<br>85:13 94:6 98:5,12<br>100:10,16,19<br>115:2,5,10 121:15<br>135:5,18 139:24<br>140:2 151:20<br>152:9,12,17 153:8<br>154:25 158:15<br>162:11 163:13<br>164:11,14,17<br>166:20 167:10<br>168:10 169:2,8<br>170:3,10,15,19,20<br>171:1,12,23<br>172:13,23 174:1<br>187:5 191:14<br>198:8 204:15,21<br>206:8 210:3 211:5<br>214:18 217:11<br>218:11 234:21<br>235:9,14 237:1,7<br>239:16 240:4<br>243:2,4 244:7,14,<br>18 245:3 246:8,12<br>248:18 251:9<br>252:7,19 253:20<br>254:1,14 255:17<br>256:17 264:23<br>266:5,11 269:17 |
| <hr/> <b>3</b> <hr/>                                                                  | <b>401(k)</b><br>15:12                                            | <hr/> <b>6</b> <hr/>                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>3</b><br>53:10 86:23,24<br>223:3,4,6,10,19<br>225:3,8                              | <b>48</b><br>83:16                                                | <b>6</b><br>19:24,25 143:14,<br>17 145:2,3 194:1<br>262:21 263:10,13<br>264:15  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>30</b><br>272:3                                                                    | <b>4886</b><br>83:17                                              | <b>600</b><br>27:10 35:4 112:18<br>174:10 216:14<br>247:22                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>30(e)</b><br>279:22                                                                | <b>4887</b><br>86:1                                               | <b>600,000</b><br>131:3 132:5<br>216:14                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>300</b><br>268:12,18                                                               | <b>4890</b><br>87:4                                               | <b>600-plus</b><br>173:1                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>350</b><br>45:10                                                                   | <b>4:12</b><br>195:12                                             | <b>6:23</b><br>243:25                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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Shapiro, Mark on 03/05/2025

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Shapiro, Mark on 03/05/2025

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